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S. HRG. 99-336 PT. 2

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Senate Hearings

Before the Committee on Appropriations

ORIGINAL

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Department of Transportation and Related Agencies Appropriations

Fiscal Year 1986

99th CONGRESS, FIRST SESSION

H.R. 3244

PART 2—(Pages 1–943)

CONSOLIDATED RAIL CORPORATION (CONRAIL)
DEPARTMENT OF TRANSPORTATION
INTERSTATE COMMERCE COMMISSION
U.S. RAILWAY ASSOCIATION

S. Hrg. 99-336 Pt. 2

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 3244

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1986, AND FOR OTHER PURPOSES

PART 2 (Pages 1-943)

CONSOLIDATED RAIL CORPORATION (CONRAIL)
DEPARTMENT OF TRANSPORTATION
INTERSTATE COMMERCE COMMISSION
U.S. RAILWAY ASSOCIATION

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

THURSDAY, MARCH 28, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, and Chiles. Also attending, Senator Pressler.

INTERSTATE COMMERCE COMMISSION

STATEMENT OF REESE H. TAYLOR, JR., CHAIRMAN

ACCOMPANIED BY:
- HEATHER J. GRADISON, VICE CHAIRMAN
- MALCOLM M.B. STERRETT, COMMISSIONER
- FREDERIC N. ANDRE, COMMISSIONER
- J.J. SIMMONS, COMMISSIONER
- PAUL H. LAMBOLEY, COMMISSIONER
- ANDREW J. STRENIO, JR., COMMISSIONER
- MARTIN E. FOLEY, MANAGING DIRECTOR
- RONALD S. YOUNG, DIRECTOR, BUREAU OF ACCOUNTS
- J. WARREN McFARLAND, DIRECTOR, OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE
- ROBERT S. BURK, ACTING GENERAL COUNSEL
- EDWARD J. SCHACK, SPECIAL COUNSEL

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order. We appreciate the turnout for today's meeting on the Interstate Commerce Commission budget. I welcome those commissioners in attendance.

The hearing will closely examine a very serious issue, the merits of the Commission's request for a fiscal year 1985 supplemental. The Commission we are told will, starting April 1, be faced with the possibility of a furlough that would in effect result in approximately a 20-percent reduction of time and pay for Commission employees.

We intend to explore this issue. We also intend to explore what the Commission did, knowing as they did, well in advance of the beginning of this fiscal year, to arrange their budget so they wouldn't have this kind of crisis. And it is important, of course, for the committee to find out how much of the present crisis is due to the level set by the Appropriations Committee and signed into law by the President, and how much of the crisis is due to the dereliction on the part of the Commissioners in failing to realize that that level was indeed and in fact the law.

It is very appropriate that we look at the supplemental request knowing that the appropriated level was established in law. A number of people who are knowledgeable about such things in Government say that the ICC's action is probably the most flagrant rejection of an act passed and signed into law by the President that they have ever seen on the part of a commission.

To go and spend as though that level had not been set by law, certainly doesn't smack of sensible management on the part of the Commissioners. But these are the things, of course, that we want to find out as well as exploring the fiscal year 1986 request.

Before we proceed to the testimony of Chairman Taylor, we have a statement submitted by Senator Chiles.

[The statement follows:]

STATEMENT OF SENATOR CHILES

I would like to join Chairman Andrews in welcoming Reese Taylor, Chairman of the Interstate Commerce Commission, and the 6 other Commissioners to our hearings this morning. I would like to especially welcome Commissioners Lamboley, Strenio, and Simmons to our hearing this morning as they are newly appointed to the ICC since our last appropriations hearing.

For the benefit of the new Commissioners, I'm sure you have now had a chance to review last year's hearing record when we discussed the need for the ICC to hold open conferences and to conduct all significant matters in public, consistent with the letter and intent of the Government in the Sunshine Act. On May 10, the Commission held its first open meeting in almost 20 months and adopted a new rule which would require all significant matters to be discussed and voted on in public session. I am sure you know that this new rule gives each and every Commissioner the right and the authority to request open meetings and upon the request of any Commissioner, an open meeting will be scheduled by the chairman. This morning I look forward to reviewing with you the progress you have made in conducting open meetings.

I am also concerned, as is Chairman Andrews, with the implications of the supplemental request. From what we have been told, the ICC has been spending at a rate which will greatly exceed the $48 million appropriated to it without draconian measures being taken. Instead of planning from the beginning of the year to live within the $48 million provided to the ICC, the Agency has, instead, chosen to spend at an annual rate of approximately $52 million, and now the only way to live within the $48 million would be to furlough all employees 1 day a week for the rest of the fiscal year. While having 1 extra day off a week may be welcomed by some, I am sure that a 20-percent pay cut for all ICC employees would not be popular. Surely we will need to discuss in some detail your supplemental request and the decisionmaking process that led you to the edge of the fiscal cliff.

I look forward to hearing your testimony.

STATEMENT OF REESE TAYLOR

Senator ANDREWS. We are happy to have you here. Chairman Taylor and Commissioners, we would hope that you might summarize your statements, if you wish, and we can assure you that the prepared statements will be made a part of the record as though given in their entirety.

So, Mr. Chairman, you may proceed.

INTRODUCTION OF ASSOCIATES

Mr. TAYLOR. Thank you, Mr. Chairman. Let me begin by introducing those at the table with me this morning. On my left is Vice Chairman Gradison. On her left are Commissioner Andre, Commissioner Lamboley, and Commissioner Strenio.

On my right is our Managing Director, Martin Foley. And on his right are Commissioner Sterrett, Commissioner Simmons, and on his right is Ron Young, the Director of our Bureau of Accounts.

Thank you for inviting me here today to discuss the Interstate Commerce Commission's fiscal year 1985 supplemental appropriation request. I would like to highlight some aspects of this request, and then I will turn to our appropriation request for fiscal year 1986.

FISCAL YEAR 1985 SUPPLEMENTAL REQUEST

Of the total supplemental request of $4.463 million for fiscal year 1985, $3.4 million is requested to finance the program operations at the staff-year levels approved in the conference report accompanying the continuing resolution. The balance, or just over $1 million, is requested to fund the additional 35 staff-years needed by the Commission to carry out its current responsibilities.

These supplemental resources are required primarily to enable the Commission to continue to perform critical functions in a timely manner. These functions are statutorily based, and the volume of workload in many instances is uncontrollable because it is generated by the public. As long as our existing legislation remains in effect, we must continue to implement and enforce it.

The current authorization of $48 million represents a reduction of over $8.5 million from the amount expended in fiscal year 1984 and $6 million from the amount originally requested for fiscal year 1985, which approximated our spending rate at the beginning of this fiscal year.

The authorized funding will support only about 860 staff-years, which is far below what is authorized under the conference report for the continuing resolution and also approximately 200 staff-years below the onboard strength at the beginning of the fiscal year.

By the time the continuing resolution was approved in mid-October, we had already begun fiscal year 1985. Therefore, there was no opportunity for the Commission to properly plan and implement spending reductions of $6 million and at the same time maintain a staffing level anywhere near what was authorized by the continuing resolution.

Because of the long leadtime required to effect reductions in force and the extremely high costs of the terminal leave, severance, and unemployment compensation payments associated with separating a highly tenured work force, significant savings in personnel compensation cannot be quickly achieved.

At the Commission's request, our Managing Director explored every possible reduction alternative short of totally closing down the Agency. His study revealed that if the supplemental request before you is not approved, we either would have had to reduce our work force to less than 700 positions by separating almost 400 employees or furlough every employee for up to 30 work days. In either event, the effect upon our personnel and the work of the Commission for this fiscal year would be devastating.

After considering various options, the Commission voted unanimously on October 25, 1984, to request restoration of the funds necessary to conduct operations at the minimum level of this supplemental request and to adopt an action plan to cut spending to that level or below, if possible.

ACTION PLAN

The action plan placed a freeze on hiring as well as severe restrictions on all nonpersonnel expenditures. To date, the action plan has been very successful in reducing expenses. We currently estimate that if the plan must remain in effect for the balance of this fiscal year, it will result in a cost reduction of $2.7 million compared to the spending rate at the beginning of the fiscal year.

Despite this success, the cost reduction falls far short of the $6 million cut from the budget request. In addition, the continuation of these actions will have a significant adverse effect on operations, since key personnel cannot be replaced, program travel is severely restricted, and certain basic expenditures for such things as training, incentive awards, equipment, and supplies have either been canceled or deferred.

The Commission also instructed the Managing Director to develop an emergency plan which would cut staff-years and spending to the conference report levels in case the supplemental request were denied or only partially granted.

FURLOUGHS

On January 18, 1985, we voted to have the Managing Director prepare a plan under which, in the event no funds or insufficient funds are forthcoming in the supplemental, every employee will be furloughed without pay 1 day per week, commencing in April, for approximately 26 work days, or until our spending level falls within the continuing resolution appropriation for the fiscal year.

This is an extremely painful choice, but in our view it is the only reasonable one available to us under the circumstances. The furlough plan has been negotiated with the unions, pursuant to our labor/management agreements, and formal 30-day notices to the employees went out on March 1, 1985.

Originally, we had planned to begin furloughs on April 1. However, in the hope of getting some positive word from this committee on our supplemental, we have voted to delay implementation of the furlough plan to the last possible moment our current numbers will allow, April 14. If we receive no positive indication from this committee by April 11 that the supplemental appropriation will be approved, we simply will have no choice but to begin the furloughing program.

So far we have lost 77 employees through attrition in fiscal year 1985. We separated another 38 employees during January and February, the earliest possible time for such steps, just to get us to the staff-year level sought in our supplemental request. We have elected, if necessary, to furlough all employees in the absence of supplemental funding because this will allow us to maintain a rational organizational structure, capable of carrying out our responsibilities in fiscal year 1986.

However, under this alternative the workload in every office can be expected to fall behind schedule. Serious productivity losses will result, and we will undoubtedly miss statutory deadlines in some cases. More importantly, our employees will be obliged to take a 20-percent cut in pay for a period of up to 6 months, which will force many talented employees to leave the agency.

What we have proposed instead, for a relatively small additional amount of resources, is a controlled, gradual, and smooth transition during fiscal years 1985 and 1986 to a lean but effective regulatory agency prepared to deal with both its current and future regulatory responsibilities.

We still have a number of very important regulatory responsibilities that relate to the railroads. And it looks like these responsibilities will need to be met for some time to come. Moreover, our responsibilities will continue in the bus area. Until further deregulatory proposals are enacted, we will continue to have regulatory duties to perform in the trucking area as well.

With this in mind, our budget proposal for fiscal year 1985 is designed to enable the Commission to carry out its statutory responsibilities and ensure a reasonable transition toward any further reduced regulatory roles. We think this posture will promote the most effective use of our resources and provide the greatest public benefit.

FISCAL YEAR 1986 BUDGET REQUEST

Let me turn now, if I may, Mr. Chairman, to the Commission's fiscal year 1986 appropriation. In the interest of time, most of the initial part of that statement is with the longer statement we have submitted, so I will begin over on page 4 and quickly add a couple of highlights.

ENFORCEMENT PROGRAM

Last year, this committee voiced concern over the direction of the Commission's enforcement program. At that time, we advised you that our Office of Compliance and Consumer Assistance had been directed to prepare for an open public conference, so that the entire Commission could address questions pertaining to the effectiveness of the Commission's enforcement activities.

At the conference, which was held last July, the Commission established a list of enforcement priorities that is now receiving the greatest share of our enforcement resources. The types of violations included within the high-emphasis group that our enforcement staff is currently focusing upon are: antitrust, ethics, fitness/safety, household goods, illegal lumping, insurance, kickbacks, overcharges/duplicate payments and c.o.d., owner-operator problems, unauthorized passenger carrier operations, and weight-bumping.

The Commission has also given the enforcement staff clear guidance that marketplace solutions are to be encouraged when feasible. The statutory violations that come within the Commission's jurisdiction should be pursued.

Also, in line with the recommendations of the General Accounting Office, the data system which stores enforcement case information and resource use has been upgraded and the standards for measuring the effectiveness of our enforcement activities have been revised.

The results of our enforcement work during the first quarter of fiscal year 1985 indicate that the changes made have improved our enforcement program. During the first quarter of this fiscal year, over 85 percent of the investigations and litigative actions concluded were cases dealing with high emphasis violations.

In fact, over 60 percent of the investigations and litigative cases involved the failure of carriers to maintain insurance at the required level. Without any question, this kind of case is extremely important in view of the threat posed to the public by uninsured passenger or property carriers operating over the highways.

I think you would also be interested in some recent figures on revocation of motor carrier operating authorities. During the first 5 months of fiscal year 1985, the Commission has revoked 844 operating licenses through our insurance monitoring program, and of the 844 revocations, 657 were revoked involuntarily because the carriers lacked insurance. The other 187 were revoked at the request of the carriers.

We believe these measures demonstrate that the Commission intends to maintain an adequate enforcement program.

PUBLIC MEETINGS

Also, the Commission has responded to this subcommittee's concerns, not only in the enforcement area but in other areas as well. Last year, questions were raised about the frequency of public meetings of the Commission. As a result, shortly after last year's hearing, a new rule was adopted regarding the convening of public meetings to decide upon specific matters of major transportation importance. To demonstrate what has occurred during a few months under the new rule, as compared with the nearly 3 years that preceded adoption of the rule, an exhibit has been prepared which I would like to have included in the record.

Senator ANDREWS. We will be glad to put it in the record, Chairman Taylor.

[The information follows:]

SCHEDULE OF CONFERENCES AND ORAL ARGUMENTS

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
8/24/81	9:30 a.m.	Hearing Room A		Open		1983 Budget
9/22/81	9:30 a.m.	Hearing Room A	X		Ex Parte No. 311 (Sub-No.4)	Modification of the Motor Carrier Fuel Surcharge Program
10/1/81	9:00 a.m.	Hearing Room A	X		Ex Parte MC-77	Elimination of Certificates as the Measure of Holding Out
10/14/81	9:00 a.m.	Hearing Room A	X		Ex Parte MC-122 (Sub-No. 2)	Lease of Equipment and Drivers to Private Carriers
2/9/82	9:00 a.m.	Hearing Room A		Open	Ex Parte MC-88	Detention of Motor Vehicles - Nationwide
4/7/82	9:30 a.m.	Hearing Room A	X		F.D. 29720 (Sub-No. 1)	Guilford Transportation Industries, Inc. - Control - Boston and Maine Corp.
					F.D. 26115 (Sub-No. 12)	Boston and Maine Corporation Amended Plan of Reorganization
6/16/82	9:00 a.m.	Hearing Room A	X		Ex Parte No. 346 (Sub-No. 7)	Railroad - Export Coal Exemption

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
6/29/82	9:30 a.m.	Hearing Room A	X		F. D. No. 29772	Guilford Transportation Industries, Inc. - Control - Delaware and Hudson Rwy. Co.
7/22/82	9:30 a.m.	Hearing Room A	X		F. D. No. 30000	Union Pacific Corporation, and Union Pacific Railroad Company - Control - Missouri Pacific Corporation and Missouri Pacific Railroad Company
8/10/82	9:30 a.m.	Hearing Room A		Open		FY '84 Budget
9/13/82	1:30 p.m.	Room 4225		Closed	F.D. No. 30000	Union Pacific Corporation, and Union Pacific Railroad Company - Control - Missouri Pacific Corporation and Missouri Pacific Railroad Company
10/5/82	9:30 a.m.	Hearing Room A		Open	Ex Parte No. MC-166	Pricing Practices by Motor Common Carriers of Property Since the Motor Carrier Act of 1980

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
10/20/82	9:30 a.m.	Room 4225		Closed		Commission's Enforcement Policy
11/4/82	1:30 p.m.	Room 4225		Closed		Re: Special Counsel
11/23/82	1:00 p.m.	Howard University	X		Ex Parte No. 346 (Sub-No.8)	Railroad Exemption - Boxcars

TOTAL CONFERENCES: 7 - OF THESE, 3 WERE CLOSED
TOTAL ARGUMENTS: 8

5/10/84	10:30 a.m.	Hearing Room A		Open		Conferences on Significant Commission Proceedings Involving Major Transportation Issues
6/21/84	9:30 a.m.	Hearing Room A	X		F. D. No. 30300	CSX Corporation - Control - American Commercial Lines, Inc.
6/26/84	9:30 a.m.	Hearing Room A	X		Ex Parte MC-172	Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
7/11 and 7/12/84	9:30 a.m.	Hearing Room A	X		F.D. No. 28640 (Sub-No. 9)	Richard B. Ogilvie Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Debtor - Amended Plan of Reorganization
7/17/84	9:00 a.m.	Hearing Room A		Open	Ex Parte 438	Acquisition of Motor Carriers by Railroads
						Enforcement Conference
7/24/84	10:00 a.m.	Hearing Room A		Open	F.D. No. 30300	CSX Corporation-Control-American Commercial Lines, Inc.
7/26/84	10.00 a.m.	Hearing Room A		Open	F. D. No. 28604 (Sub-No. 9)	Richard B. Ogilvie Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor - Amended Plan of Reorganization
8/7/84	10:00 a.m.	Hearing Room A		Open		FY '86 Budget
8/9/84	10:00 a.m.	Hearing Room A		Open	Ex Parte MC-172	Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments

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DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
9/20/84	9:30 a.m.	Hearing Room A		Open	Ex Parte No. 230 (Sub-No. 6)	Improvement of TOFC/COFC Regulations (Railroad-Affiliated Motor Carriers and Other Carriers)
					Ex Parte No. 55 (Sub-No. 57)	Exemption of Transactions under 49 U.S.C. §11343 Involving Certain Motor Carriers of Property
10/4/84	10:00 a.m.	Hearing Room A	X		Ex Parte No. 347 (Sub-No. 1)	Coal Rate Guidelines - Nationwide
10/25/84	9:00 a.m.	Hearing Room A		Open		FY '85 Budget
12/4/84	9:30 a.m.	Hearing Room A	X		Ex Parte No. 297 (Sub-No. 7)	Motor Carrier Rate Bureaus - Expansion of Collective Ratemaking Territory
12/17/84	9:30 a.m.	Hearing Room A	X		F. D. No. 28640 (Sub-No. 9)	Richard B. Ogilvie Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor - Amended Plan of Reorganization

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
12/20/84	10:00 a.m.	Hearing Room A		Open	F. D. No. 28640 (Sub-No. 9)	Richard B. Ogilvie Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor - Amended Plan of Reorganization

TOTAL CONFERENCES: 9 - ALL OPEN
TOTAL ARGUMENTS: 6

DATE	TIME	PLACE	ORAL ARGUMENT	CONFERENCE OPEN/CLOSED	DOCKET NO.	TITLE
4/16/85	10:00 a.m.	Hearing Room A		Open	F.D. No. 30500	Norfolk Southern Corporation - Control - North American Van Lines, Inc.
5/7/85	10:00 a.m.	Hearing Room A		Open	Ex Parte No. 347 (Sub-No.1)	Coal Rate Guidelines - Nationwide
5/21/85	10:00 a.m.	Hearing Room A		Open	Ex Parte No. 297 (Sub-No.7)	Motor Carrier Rate Bureaus - Expansion of Collective Rate-making Territory

Note:

Several additional proceedings will be scheduled for oral argument and/or voting conferences during 1985, e.g., the Santa Fe Southern Pacific merger proceeding in Finance Docket No. 30400.

Mr. TAYLOR. This exhibit shows the matters that have already been scheduled for oral argument or public conference in early 1985. Many more matters will be scheduled soon. We hope you will agree that at least a good start has been made toward a great deal more collegiality in the sunshine at the ICC. That is what it is, a good start. We hope you will agree with that.

Finally, the Commission has focused on a number of substantive issues of concern to this subcommittee in such proceedings as Ex Parte No. 456 and Ex Parte No. 347, Sub-1. In so doing, the Commission has made a genuine effort to respond to critical issues raised at congressional hearings, and our efforts in this regard will continue unabated.

DIRECTED RAIL SERVICE

Finally, just a couple of very, very brief remarks about directed rail service. The only payments made recently from the directed rail service account were to the Kansas City Terminal Railway Co. for directed service performed over the lines of the Chicago, Rock Island & Pacific Railway Co. between October 15, 1979 and March 23, 1980. Accounting operations relative to the Kansas City Terminal Railway Co.'s directed service were concluded on December 31, 1983.

At the beginning of fiscal year 1985, the Commission had approximately $2.3 million in directed service funds remaining from the fiscal year 1982 supplemental appropriation of $8 million. Just yesterday, the Commission voted to deny a request from the Kansas City Terminal Railway Co. for additional compensation. However, since the KCT has the opportunity to appeal the Commission's decision on this claim, we cannot say that the funds are now available for use. We anticipate no other significant obligations of funds for directed service over the Rock Island lines. Also we do not anticipate any new directed service during fiscal year 1985 or 1986. As a result, we have not requested an appropriation of additional funds for this purpose. There are some of my colleagues who are intending to make statements at this time.

We would be happy to answer any questions you may have.

PREPARED STATEMENTS

Senator ANDREWS. Thank you. At this point in time we would like to put into the record the statements of several of the Commissioners.

[The statements follow:]

STATEMENTS OF REESE H. TAYLOR, JR.

Fiscal Year 1985 Supplemental Request

Thank you for inviting me here today to discuss the Interstate Commerce Commission's FY 1985 supplemental appropriation request. I would like to highlight some aspects of this request, and then I will be glad to answer your questions.

Of the total supplemental request of $4.463 million for FY 1985, $3.4 million is requested to finance the program operations at the staff-year levels approved in the Conference Report accompanying the Continuing Resolution. The balance, or just over $1 million, is requested to fund the additional 35 staff-years needed by the Commission to carry out its current responsibilities.

These supplemental resources are required primarily to enable the Commission to continue to perform critical functions in a timely manner. These functions are statutorily based, and the volume of workload, in many instances, is uncontrollable because it is generated by the public. As long as our existing legislation remains in effect, we must continue to implement and enforce it.

The current authorization of $48 million represents a reduction of over $8.5 million from the amount expended in FY 1984 and $6 million from the amount originally requested for FY 1985, which approximated our spending rate at the beginning of this fiscal year. The authorized funding will support only about 860 staff-years which is far below what is authorized under the Conference Report for the Continuing Resolution and is a level approximately 200 staff-years below the on-board strength at the beginning of the fiscal year. By the time the

Continuing Resolution was approved in mid-October, we had already begun FY 1985. Therefore, there was no opportunity for the Commission to properly plan and implement spending reductions of $6 million and at the same time maintain a staffing level anywhere near what was authorized under the Continuing Resolution.

Because of the long lead time required to effect reductions in force and the extremely high costs of the leave, severance, and unemployment compensation payments associated with separating a highly tenured workforce, significant savings in personnel compensation cannot be quickly achieved. At the request of the Commission, our Managing Director explored every possible reduction alternative short of totally closing down the agency. His study revealed that, if the supplemental request before you is not approved, the agency either would have had to reduce the workforce to less than 700 positions by separating almost 400 employees or furlough every employee for up to 30 workdays. In either event, the effect upon the personnel and the work of the Commission for this fiscal year would be devastating. After considering various options, the Commission voted unanimously, on October 25, 1984, to request restoration of the funds necessary to conduct operations at the minimum level in this supplemental request and to adopt an action plan to cut spending to that level or below, if possible.

The action plan placed a freeze on hiring, as well as severe restrictions on all non-personnel expenditures. To date, the action plan has been very successful in reducing expenses. We currently estimate that if the plan must remain in effect for the balance of this fiscal year, it will result in a cost reduction of $2.7 million compared to the spending rate at the beginning of the fiscal year. Despite this success, the cost reduction falls far short of the $6 million cut from the budget request. In addition, the continuation of these actions will have a significant adverse effect on operations, since key personnel cannot be replaced, program travel is severely restricted, and certain basic expenditures for such things as training, incentive awards, equipment, and supplies have either been cancelled or deferred.

The Commission also instructed the Managing Director to develop an emergency plan which would cut staff-years and spending to the Conference Report levels in case the supplemental request were denied or only partially granted. On January 18, 1985, we voted to have the Managing Director prepare a plan under which, in the event no funds or insufficient funds are forthcoming in the supplemental, every employee will be furloughed without pay one day per week -- commencing April 1, 1985 -- for approximately 26 work days, or until our spending level falls within the Continuing Resolution appropriation for the fiscal year. This is an extremely painful choice, but in our view, it is the only reasonable one available to us under the circumstances. The furlough plan has been negotiated with the unions, pursuant to our labor/management agreements, and the formal 30-day notices to the employees went out on March 1, 1985. The Managing Director will provide the Commission very soon with an update on all the personnel actions and the results of our efforts to reduce discretionary spending in the non-personnel areas. At such time, he will request our final approval to implement the furlough plan. The furloughing will place tremendous burdens on our managers and the rank and file employees.

So far, we have lost 75 employees through attrition in

FY 1985. We separated another 38 employees during January and February (the earliest possible time for such steps) just to get us to the staff-year level sought in our supplemental request. We have elected, if necessary, to furlough all employees in the absence of supplemental funding. This alternative will allow us to maintain a rational organizational structure so that we will have the capability of carrying out our responsibilities in FY 1986. However, under this alternative, the workload in every office is likely to fall behind schedule, serious productivity losses will result, and we could miss statutory deadlines in some cases. Our employees will be forced to take a 20% cut in pay for a period of up to 6 months, which will encourage many talented employees to leave the agency.

What we have proposed instead, for a relatively small additional investment of resources, is a controlled, gradual, and smooth transition during FY 1985 and 1986 to a lean, but effective, regulatory agency prepared to deal with both its current and future regulatory responsibilities.

We have a number of very important regulatory responsibilities related to the railroads, and it looks like these responsibilities will need to be met for a long time to come. Moreover, our responsibilities will continue in the bus area, and, until further deregulatory proposals are enacted, we will continue to have regulatory functions in the trucking area as well. With this in mind, our budget proposal for FY 1985 is designed to enable the Commission to carry out its statutory responsibilities and ensure a reasonable transition toward any further reduced regulatory roles. We think this posture will promote the most effective use of our resources and provide the greatest public benefit.

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INTERSTATE COMMERCE COMMISSION

COMPARISON OF TOTAL STAFF-YEARS BY BUREAU AND OFFICE
FY 1984 TO FY 1986

		FY 1985				
Bureau/Office	FY 1984 Actual	President's Budget	Continuing Resolution	Requested Change	Supplemental Request	FY 1986 Request
Commissioners and their Staffs	64	87	67	0	67	57
Secretary	96	82	73	+17	90	90
General Counsel	34	33	27	+3	30	29
Proceedings	212	170	160	-1	159	152
Hearings	16	12	12	0	12	8
Special Counsel	9	0	7	0	7	7
Transportation Analysis	42	41	30	+6	36	36
Accounts	124	107	113	+3	116	105
Traffic	93	90	90	-5	85	81
Compliance & Consumer Assistance	354	295	275	+10	285	261
Managing Director	114	105	95	+2	97	97
TOTAL STAFF-YEARS	1,158	1,022	949	+35	984	923

Bureau or Office	Conference Report vs. Supplemental	Justification
Secretary	Reprogrammed +5 Staff-Years	• Perform insurance recordkeeping function formerly handled by contractor.
	+4 Staff-Years	• Increase of staff-years to perform the printing function transferred to this Office.
	Additional resources +8 Staff-Years	• Increased workload generated by revisions of User Fee Schedule; added 23 new fees, now requiring financial recordation and accountability for 72 different types of action.
		• Motor Carrier Safety Act of 1984 requires application for Certificate of Registration by certain foreign motor carriers operating in the U.S. Act will increase workload in docketing, fee processing, insurance certification, and certificate serving units.
General Counsel	Additional resources +3 Staff-Years	• Will bring this small office to the minimum staff level needed to continue to provide high quality legal advice in the preparation and review of Commission decisions prior to voting and in the required defense of appealed Commisson decisions.
Proceedings	Reprogrammed -1 Staff-Year	• Reduction in level of public assistance devoted to motor licensing activity.

Transportation Analysis	Additional resources +6 Staff-Years	• To continue rail monitoring studies including those concerning exemptions.
		• To continue economic analysis in rail rate cases and rate bureau compliance surveys; to continue motor carrier industry monitoring activity to evaluate effects of Motor Carrier Act of 1980.
Accounts	Additional resources +3 Staff-Years	• To complete work on Motor Carrier Regional Cost Study. Study will provide data based on 1982-83 figures for use in general rate increase and major rate restructuring cases in lieu of 1974-75 figures presently available. Will perform analysis of rail rate cases which would otherwise be indefinitely delayed.
Traffic	Reprogrammed -5 Staff-Years	• Special Permission and Suspension Boards combined because of drop in workload. These and two other positions reprogrammed to Secretary's Office.
Compliance & Consumer Asst.	Additional resources +6 Staff-Years	• To provide for enforcement and implementation of Motor Carrier Safety Act of 1984.
	+4 Staff-Years	• 40 additional investigations will be conducted in those areas of concern articulated at Congressional hearings and by the Commission.
Managing Director	Reprogrammed -3 Staff-Years	• Printing function transferred to Secretary's office.
	+5 Staff-Years	• Required to accomplish increased financial, personnel management, and administrative workload created by the contraction in the agency's workforce and funds.

Fiscal Year 1986 Budget Request

Thank you for inviting me here today to discuss the Interstate Commerce Commission's FY 1986 appropriation request. I would like to highlight some aspects of this request, and then I will be glad to answer your questions.

Our proposed budget totals $51.157 million and provides for a total of 923 staff-years. This is a reduction of 235 staff-years, or 20%, from the level actually expended in FY 1984, and it's a reduction of 55% from the authorized staffing level in 1979, prior to the passage of regulatory reform legislation affecting the rail, motor carrier, and household goods industries.

Our FY 1986 request is based upon the assumption that legislation to further deregulate the trucking industry will not be enacted in time to have a significant impact on the Commission's FY 1986 budget requirements. Moreover, if further trucking deregulatory legislation is enacted, a reasonable amount of time will be needed after its enactment to implement its provisions and effectuate the staff reductions such implementation will permit. Therefore, we project no significant decreases in the Commission's workload during FY 1986.

Nonetheless, some decreases in workload and staffing are continuing to occur with respect to our motor carrier regulatory functions under existing legislation. Staff time devoted to motor carrier programs will drop 26% between FY 1984 and FY 1986. Decreases in applications for motor carrier operating authority can be projected as a continuation of the trend experienced after the initial flurry of filings that followed enactment of the Motor Carrier Act in 1980. Since implementation of the Motor Carrier and Bus Acts is now largely complete, time spent on rulemaking preparation and on litigation cases arising from rulemakings should decline. However, motor carrier tariff filings are expected to increase somewhat, as carriers continue to take advantage of the pricing freedoms accorded them under the Motor Carrier Act of 1980.

The Commission continues to implement provisions of the Staggers Rail Act, and we do not anticipate a significant change in our resource needs in the rail area. However, projected workload reductions will permit staff resources devoted to rail activities to decline by 13% between FY 1984 and FY 1986. Although that portion of our rail workload associated with Conrail abandonments, intrastate rate cases, and State certifications is expected to decrease, these reductions will be partially offset by increases in the workload relative to mergers and other abandonments.

Staff resources devoted to general management and administrative support will be reduced by 15% between FY 1984 and FY 1986. During periods of retrenchment, administrative support activities do not decline in direct proportion to the reduction in employment levels for the Commission as a whole because of increased work associated with carrying out reductions in force and other retrenchment activities.

Our FY 1986 budget request is austere. The reductions result, in large part, from the institution of measures to increase productivity. The Commission is currently examining its organizational framework in an effort to structure itself more effectively and permit more efficient operations in the event of further legislative change. Although decisions on these organizational changes should be made early this summer, it will take time to do the detailed planning necessary to implement the changes in the most efficient manner. However, most of the changes should be ready for implementation by the close of FY 1986, so that significant budgetary impacts resulting from the reorganization can be taken into account in our budget request for FY 1987. The revised organizational structure will reflect our efforts to reduce staffing in the face of reduced regulatory responsibilities while establishing realistic operational priorities.

In your Committee Report on the FY 1985 appropriation, the Committee suggested that the Commission consider a number of specific organizational changes. I can assure you that these suggestions have either already been acted upon (such as, the full utilization of review boards) or are being considered in our organization study.

Last year, this Committee voiced concern over the direction of the Commission's enforcement program. At that time, we advised you that our Office of Compliance and Consumer Assistance had been directed to prepare for an open public conference, so that the entire Commission could address questions pertaining to the effectiveness of the Commission's enforcement activities. At the conference, which was held last July, the Commission established a list of enforcement priorities that is now receiving the greatest share of our enforcement resources. The types of violations included within the high emphasis group that our enforcement staff is currently focusing upon are:

Antitrust
Ethics
Fitness/Safety
Household goods
Illegal lumping
Insurance
Kickbacks
Overcharges/Duplicate Payments/C.O.D.
Owner-operator problems
Unauthorized passenger carrier operations
Weight-bumping

The Commission has also given the enforcement staff clear guidance that marketplace solutions are to be encouraged when feasible and statutory violations that come within the Commission's jurisdiction should be pursued. Also, in line with the recommendations of the General Accounting Office, the data system which stores enforcement case information and resource use has been upgraded, and the standards for measuring the effectiveness of enforcement activities have been revised.

The results of our enforcement activities during the first quarter of FY 1985 indicate that the changes made have improved the Commission's enforcement program. During the first quarter of this fiscal year, over 85% of the investigations and litigative actions concluded were cases dealing with high emphasis violations. In fact, over 60% of the investigations and litigative cases involved failure of carriers to maintain insurance at the required level. Without any question, this kind of case is extremely important in view of the threat posed to the public by uninsured passenger or property carriers operating over the highways.

The litigation actions included 3 criminal cases, 8 civil forfeitures, 23 civil injunctions, 82 consent agreements, and 9 miscellaneous cases. The civil forfeitures produced fines totaling more than $300,000. Our enforcement staff has been relying heavily on consent agreements, because they formalize an administrative settlement which the alleged violator is required to execute, and because they reduce costs to the judicial system and the Federal Government.

We believe that these measures demonstrate that the Commission intends to maintain an adequate enforcement program.

Finally, the Commission has responded to this Committee's concerns not only in the enforcement area but in other areas as well. Last year, this Committee questioned the infrequency of open meetings at the Commission. In response to this criticism, the Commission increased its use of the open conference and oral hearing. Specifically, in calendar year 1984, the Commission held 10 open conferences and 6 oral arguments. The Commission's public votes taken in the open conferences were in addition to the notation votes cast in 1,921 Commission proceedings during calendar year 1984. Moreover, the Commission has focused on a number of substantive issues of concern to this Committee in such proceedings as Ex Parte No. 456 and Ex Parte No. 347 (Sub-No. 1). Thus, the Commission has made and will continue to make every effort to respond to the issues raised in Congressional hearings.

Directed Rail Service

Thank you for inviting me here today to discuss the Interstate Commerce Commission's FY 1986 budget request for directed rail service payments.

The only payments made recently from this account were to the Kansas City Terminal Railway Co. for directed service performed over the lines of the Chicago, Rock Island, and Pacific Railway Co. between October 15, 1979, and March 23, 1980. Accounting operations relative to the Kansas City Terminal Railway Company's directed service were concluded on December 31, 1983.

At the beginning of FY 1985, the Commission had approximately $2.3 million in directed service funds remaining from the FY 1982 supplemental appropriation of $8 million. At this time, the Commission has pending before it a request for additional compensation from the Kansas City Terminal Railway Co. The Commission anticipates that this claim will be decided by the second quarter of 1985. Thereafter, we anticipate no significant obligations of funds for directed service over the Rock Island lines.

We do not anticipate any new directed service during FY 1985 or FY 1986, and as a result, we have not requested an appropriation of additional funds for this purpose.

I would be happy now to answer any questions you may have.

Statement of Heather J. Gradison

My decision to support the Commission's supplemental budget request was a difficult one. Prior to the passage of the Continuing Resolution, I had supported, along with a majority of the Commission, the President's FY'85 Budget Request for the ICC. In the Continuing Resolution, both Houses of Congress expressed disagreement with the staffing levels of certain Commission offices in the President's budget, and the Congress cut both the staffing (to 949) and funding levels (to $48 million) of the agency overall.

We were advised by Managing Director Foley that $48 million would only fund 860 total staff years in FY'85, which meant that there would have to be a reduction of at least 162 positions (or almost 16 percent of the work force) from the level proposed in the President's budget. By this time, the fiscal year had already begun. It is my understanding that because of the way the RIF process works and the timing of our approved funding, the agency would have had to eliminate more than twice the 162 positions in order to comply with the overall annual funding made available to the Commission.

I gave serious thought to the question of whether the Commission ought to seek supplemental appropriations at all. I became convinced, however, at least in part because of Managing Director Foley's advisory memorandum in October 1984, that the $48 million figure for FY'85 would involve serious and extensive adverse effects on the ICC's employees and on the ICC's ability to meet its statutory responsibilities. Therefore, despite some reluctance to seek additional funding, the uncertainty of the outcome and the resultant lingering uncertainty for employees as to their jobs, I decided to support a united Commission effort to seek supplemental appropriations.

In deciding on the level of additional funding needed, I have supported a level of staffing which would allow the

Commission to be responsive to Congressional concerns and to our own stated objectives during the fiscal year. With the funding level we are requesting in FY'85, I believe we can continue the steady, but gradual, decline in the level of employees and appropriations needed at the Interstate Commerce Commission. In any event, I support the Commission's concentrated efforts to comply with the funding you provide to obtain the most efficient use of our resources.

STATEMENT OF J. J. SIMMONS, III

INITIALLY, I WOULD LIKE TO EXPRESS MY APPRECIATION FOR THE OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE. I AM HERE TO SUPPORT BOTH THE COMMISSION'S REQUEST FOR SUPPLEMENTAL FUNDING FOR FISCAL YEAR 1985 AND OUR PROPOSED BUDGET FOR FISCAL YEAR 1986. HOWEVER, I WILL FOCUS THESE BRIEF OPENING REMARKS ON CERTAIN ASPECTS OF THE FUNDING DIFFICULTIES FACING THE COMMISSION IN THE CURRENT FISCAL YEAR.

I AM FORTUNATE ENOUGH TO HAVE BEEN NOMINATED AND CONFIRMED FOR A SECOND TERM ON THE COMMISSION, AND, SINCE SEPTEMBER OF 1984, THE COMMISSION HAS BEEN FUNCTIONING WITH A FULL COMPLEMENT OF SEVEN COMMISSIONERS. I BELIEVE THE CURRENT COMMISSIONERS SHARE AN INCREASED COMMITMENT TO WORK TOGETHER IN HARMONY AS WE PERFORM OUR STATUTORY DUTIES WHILE SEEKING TO PROMOTE THE PUBLIC INTEREST TO THE BEST OF OUR INDIVIDUAL UNDERSTANDINGS. TO ACCOMPLISH THESE GOALS, WE COMMISSIONERS NEED THE WHOLEHEARTED COOPERATION OF EACH AND EVERY COMMISSION EMPLOYEE. UNFORTUNATELY, REDUCTIONS IN PERSONNEL OVER THE LAST THREE YEARS AND THE POSSIBILITY OF FURTHER REDUCTIONS OR FURLOUGHS IN FISCAL YEAR 1985 HAVE HAD A DEVASTATING EFFECT ON THE MORALE OF MANY EMPLOYEES.

CHAIRMAN TAYLOR HAS EXPLAINED WHY THE COMMISSION FEELS THAT SUPPLEMENTAL FUNDING IS NECESSARY TO PERMIT US TO MEET OUR STATUTORILY MANDATED RESPONSIBILITIES. I WOULD LIKE TO HIGHLIGHT SOME OF THE HUMAN RELATIONS ASPECTS OF THE PROPOSED FURLOUGHS AND 20 PERCENT CUT IN PAY ON OUR EMPLOYEES. THE INEVITABLE IMPACT OF THESE ACTIONS WILL BE AN EVEN FURTHER LOWERING OF MORALE AND A REDUCTION IN THE PRODUCTIVITY OF INDIVIDUAL EMPLOYEES. MANY OF THE MOST TALENTED WILL SEEK EMPLOYMENT OPPORTUNITIES ELSEWHERE, AND THE DECREASE IN MORALE OF THOSE THAT REMAIN WILL MAKE PERFORMANCE OF THEIR DUTIES MORE DIFFICULT. THE FINANCIAL IMPACT OF THE PAY CUT OF COURSE WILL VARY FROM EMPLOYEE TO EMPLOYEE. I

CAN ASSURE YOU, HOWEVER, THAT MANY OF OUR EMPLOYEES LITERALLY LIVE FROM PAYCHECK TO PAYCHECK. THESE EMPLOYEES WILL FACE ALMOST INSURMOUNTABLE DIFFICULTIES IN COPING WITH A 20 PERCENT REDUCTION IN THEIR SALARIES.

ONE FURTHER ASPECT OF OUR FUNDING CRISIS DESERVES MENTION. IN BOTH MY TERMS AS A COMMISSIONER, I HAVE ATTEMPTED TO COMMUNICATE MY CONCERN FOR THE WELFARE OF ALL COMMISSION EMPLOYEES. I HAVE GIVEN PARTICULAR ATTENTION TO THE NEEDS OF MINORITIES, WOMEN, AND OTHER GROUPS WHICH HAVE TRADITIONALLY BEEN DISADVANTAGED AT THE COMMISSION AND IN OUR SOCIETY AT LARGE. THE FURLOUGHS WHICH WILL BE NECESSARY ABSENT SUPPLEMENTAL FUNDING WILL DISPROPORTIONATELY AFFECT THESE GROUPS, WHICH ARE CONCENTRATED IN THE LOWER PAY SCALES AT THE COMMISSION. IT IS MY SINCERE HOPE THAT THIS SUBCOMMITTEE WILL BE SENSITIVE TO THIS CONSIDERATION IN ITS DELIBERATIONS.

IN CONCLUSION, I WANT TO ASSURE THE SUBCOMMITTEE MEMBERS THAT I AND MY FELLOW COMMISSIONERS ARE COMMITTED TO CARRYING OUT OUR RESPONSIBILITIES TO THE BEST OF OUR ABILITIES WITHIN THE SPENDING LIMITATIONS SET BY THE CONGRESS. OUR UNANIMOUS DECISION TO SEEK SUPPLEMENTAL FUNDING WAS DICTATED BY OUR SINCERE BELIEF THAT PERFORMANCE OF THESE RESPONSIBILITIES WILL BE SERIOUSLY AND ADVERSELY AFFECTED UNDER CURRENT SPENDING CONSTRAINTS. OUR DECISION TO PLAN A PROGRAM OF FURLOUGHS RATHER THAN LARGE-SCALE REDUCTIONS IN PERSONNEL TO MEET ANY FUNDING SHORTFALL WAS ALSO INTENDED TO MINIMIZE ORGANIZATIONAL DISRUPTION AS WELL AS HUMAN DISTRESS. WE WILL TAKE ALL ACTIONS NECESSARY TO STAY WITHIN OUR BUDGETARY ALLOCATIONS. THE REQUESTED SUPPLEMENTAL FUNDING, HOWEVER, WILL ENABLE THE COMMISSION TO MAKE AN ORDERLY TRANSITION TO FISCAL YEAR 1986.

THANK YOU FOR THE PRIVILEGE OF TESTIFYING BEFORE THE SUBCOMMITTEE.

STATEMENT OF ANDREW J. STRENIO, JR.

Thank you for allowing me the privilege of testifying before you. I appreciate this opportunity to reiterate my strong support for both a supplemental appropriation for fiscal year 1985 and for the proposed budget for fiscal year 1986.

At the outset, I wish to emphasize my commitment to operating the Commission as effectively and economically as possible. I believe that the level of funding we are requesting is consistent with achieving these goals of economy and effectiveness. Supplemental funds for fiscal year 1985 are essential if the Commission is to continue performing its statutory duties within the time limits established by Congress. In addition, a supplemental appropriation would facilitate an efficient transition to the lower staffing and funding levels proposed in the fiscal year 1986 budget.

The Commission has taken strong measures to reduce spending during the current fiscal year. We have adopted an action plan that has severely curtailed all non-personnel spending. Under this plan, the Commission will save an estimated $2.7 million by the end of fiscal year 1985. In addition, the Commission will soon begin a one-day-per-week furlough in order to achieve the balance of savings needed to comply with the existing fiscal year 1985 budget limits in the event that a supplemental appropriation is not approved. Such a furlough would be particularly painful because of its adverse impact on the productivity of the agency and on the morale of individual employees. Many talented employees would be forced to leave by such circumstances.

Of course, the Commission would not be facing a furlough situation now had we ordered massive RIFs earlier this year. Considering the time necessary to implement a RIF, as well as the separation costs involved, however, we would have had to RIF roughly 400 employees in order to reach the required average for the year. This would have left us with a staff level well below that specified in the Continuing Resolution. Rather than taking this drastic action, we decided instead to seek Congressional assistance.

Finally, it is worth noting that the Commission is continuing its determined effort to be responsive to Congressional concerns. For example, since last year's hearing before this Subcommittee, the agency has substantially increased the number of open conferences and oral hearings, has clarified its enforcement priorities, and has focused on a number of substantive issues of interest to this Subcommittee. The Commission will remain sensitive to issues raised in Congressional hearings and will respond appropriately.

For all these reasons, I respectfully urge you to recommend the adoption of a supplemental appropriation for fiscal year 1985 and the proposed budget for fiscal year 1986.

I would be happy to answer any questions that the members of the Subcommittee might have.

BIOGRAPHICAL SKETCH

J. J. SIMMONS, III

PERSONAL: Married - five children; date of birth - March 26, 1925

EDUCATION: University of Detroit, 1942-43; 1946-47; Civil Engineering
St. Louis University, 1947-49; B.S. Geological Engineering

EXPERIENCE: 1984-Present:
Commissioner
U.S. Interstate Commerce Commission, Washington, DC 20423
1983-1984:
Under Secretary
U.S. Department of the Interior, Washington, DC 20240
1982-1983:
Commissioner
U.S. Interstate Commerce Commission, Washington, DC 20423
1970-1982:
Vice President, Government Relations
Amerada Hess Corporation, New York, NY 10036
1969-1970:
Administrator, Oil Import Administration
U.S. Department of the Interior, Washington, DC 20240
1968-1969:
Deputy Administrator, Oil Import Administration
U.S. Department of the Interior, Washington, DC 20240
1966-1968:
Assistant Director, Office of Oil and Gas
U.S. Department of the Interior, Washington, DC 20240
1962-1966:
Domestic Petroleum Production Specialist, Office of Oil and Gas
U.S. Department of the Interior, Washington, DC 20240
1961-1962:
Regional Oil and Gas Mobilization Specialist
U.S. Department of the Interior, Battle Creek, MI 49016
1949-1961:
Vice President, Secretary-Treasurer, Geologist
Simmons Royalty Company, Muskogee, OK 74401

SPECIAL ITEMS OF RECOGNITION:

Publications:
- "A Petrographic Study of Sediments from Excavations in St. Louis", St. Louis University Press, 1949
- "Plain Facts About Oil", U.S. Department of the Interior, Government Printing Office, 1963
- "Vulnerability of Natural Gas Utility Systems to Nuclear Attack", San Jose, California, U.S. Department of the Interior, 1967
- "Vulnerability of Natural Gas Utility Systems to Nuclear Attack", Albuquerque, New Mexico, U.S. Department of the Interior, 1968

Special Honors:
- Special Act of Service-U.S. Department of the Interior, 1963
- Outstanding Performance Award-U.S. Department of the Interior, 1968
- Alumni Merit Award-St. Louis University, St. Louis, Missouri, 1968
- Distinguished Service Award-U.S. Department of the Interior, 1968
- Trustee, Madonna College, Livonia, Michigan, 1969-1976
- Member-DOE Fuel Oil Marketing Advisory Committee, 1978-1981
- Commissioner-President's Commission on Executive Exchange, 1970-1981
- Commissioner-Statue of Liberty Ellis Island Commission, 1983-present
- Member of the Board-Statue of Liberty Ellis Island Foundation, 1984-present
- Member-National Academy of Science Board of Mineral and Energy Resources, 1984-present
- Member-Department of the Interior Outer Continental Shelf Advisory Board, 1984-present

Professional Associations:
- Registered Professional Engineer - State of Oklahoma
- American Association of Petroleum Geologists
- Society of Petroleum Engineers of the AIME

CONGRESSIONAL DIRECTIVE

Senator **Andrews**. Mr. Chairman, you pointed out that somehow or other we were 12 days late approving the continuing resolution. Let me review with you that we marked this bill up in June, it went to the public in July. Everyone knew well in advance of the fiscal year what the figures were.

Actually we left the personnel numbers at a higher figure to give you the flexibility within the various functions of your Commission. That is usually what we do. The operative item, as always in an appropriations bill, Mr. Chairman, members of the Commission, is the dollar level.

As we look at it, you would have had to RIF even under the President's original request. So it doesn't come as much of a surprise, shouldn't come as a surprise to you or anyone else that there was a RIF in order.

The conference report cut ICC funding by 11.1 percent and staff by 7.4 percent. Why have you been unable to meet these two congressional directives?

Mr. **Taylor**. Mr. Chairman, I would welcome the opportunity once and for all to clear up the record on this point because this is not a self-induced crisis. I want to assure you, too, that it is not the result of any mismanagement either on my part or any of the staff's part or any of my colleagues on the Commission.

And I think the only way we can set the record straight on this is to go back and review the history that is involved. I would like to do that, if I might.

Senator **Andrews**. Well, do that in pointing out what specific steps the Commission took to comply with this 11.1 percent cut, and when these steps were taken. After all, we have a President who is calling on the Congress to cut spending.

He is calling on those of us in the Appropriations Committee day after day and has talked with our chairman, Chairman Hatfield, on a number of occasions, to cut spending because we are running a deficit in the neighborhood of $180 billion. Senator Chiles and I are both also on the Budget Committee and we continually see requests from the President to cut virtually every program, including human nutrition programs, and a number of other programs that are extremely important to the individuals in this country who are not, shall we say, among the more favored members of the society.

So we are extremely interested in why a commission can't make an 11.1-percent cut when you are all appointed by the same President that is asking for these cuts. So if you could review how you tried to do it and why you couldn't reach it, we would be most interested.

AVERAGE EMPLOYMENT

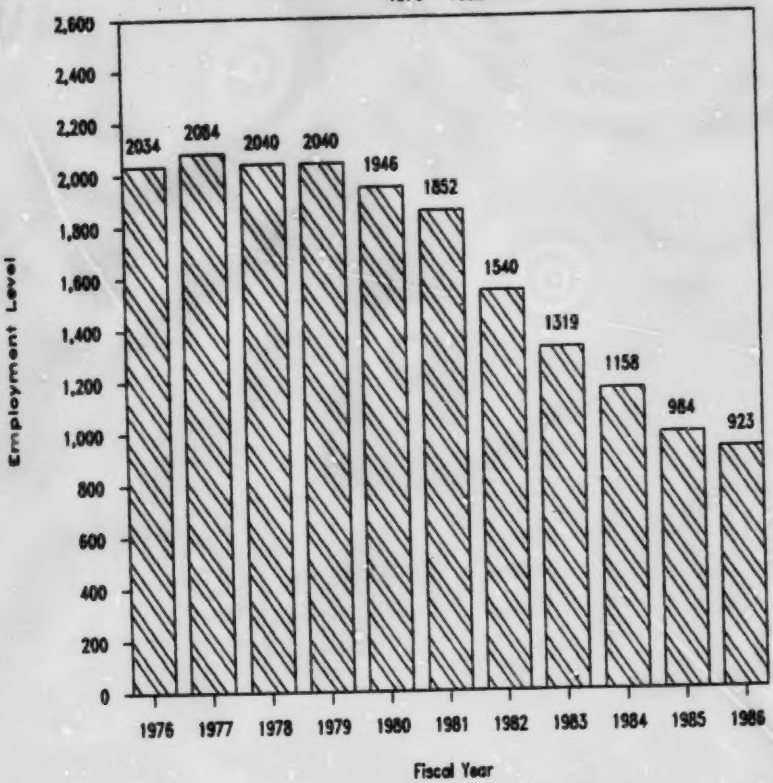
Mr. **Taylor**. In line with the last remarks you made, I think there is a chart up there on the table. If there isn't, there should be, because I think this demonstrates what the ICC has done going back to 1976.

I would like to play the history that I go to in a moment against this chart. It is entitled Average Employment 1976 to 1986.

[The chart follows:]

AVERAGE EMPLOYMENT

1976 - 1986



Senator ANDREWS. We are not talking from 1976, Mr. Chairman.

Mr. TAYLOR. I think it is important, Mr. Chairman, for this committee to realize that this Commission, particularly from the period of 1981 to the present time. has taken cuts in excess of 55 percent. And I don't think there is another agency in this town——

Senator ANDREWS. Mr. Chairman, let me point out that it was 1980 that the Congress passed deregulation. The Commission's responsibilities a decade ago were totally different than they are today.

Mr. TAYLOR. Mr. Chairman, the fact of the matter is that, despite the fact that we have deregulation, we still have trucking regulation to do. We probably have more bus work than we have ever had before.

ANTI-DEFICIENCY ACT

Senator CHILES. Mr. Chairman, what you are doing now is presenting the kind of arguments that come before the committee before we decide on an appropriation. And all of that would be very relevant if you were speaking to us about next year's appropriation or if you had been doing it timely about last year's appropriation.

We are now talking about why you have violated the Anti-Impoundment and Deficiency Act which says——

Mr. TAYLOR. We have not violated that act, and I resent that accusation.

Senator CHILES. Then I want you to keep your explanation to why you have not violated that act and don't go back and tell us about 1970.

Mr. TAYLOR. If you will both give me a chance, I would be delighted. That is all I am asking for. May I have that chance?

Senator CHILES. Yes, sir; but don't go back and give us a history back to 1970. This administration has now said we want to cut Amtrak entirely. We want to cut the SBA entirely. Are they going to come in and say back to 1970 we had so many employees?

Mr. TAYLOR. All I am saying is, please play off the history against the background of this chart, which shows that this administration came into power in 1981 and that we have taken over a 55-percent cut since then. There isn't another agency in Washington, DC, that has taken those kind of cuts.

Senator CHILES. You are again making an argument in which you were trying to justify whether you violated the Impoundment Act. Any judge would say you are out of order. You don't have a right to make that argument now.

The act says, Any officer or employee of the U.S. Government or the District of Columbia may not make or authorize any expenditure or obligation exceeding an amount available in an appropriation or fund for the extenditure of that obligation.

Mr. TAYLOR. Will you let me go through the history on this thing?

Senator CHILES. As long as you relate to the Impoundment Act and relate to anything that is relevant.

Senator ANDREWS. That is right. And I think what Senator Chiles and I have in mind is that we are in the body of Congress that understands filibusters. You really don't have to go back a decade.

All we are asking about is why you weren't able to live up to the law that cut you 11.1 percent, which is not really that great a cut.

Mr. TAYLOR. We have adhered to that law, and we are not going to violate it. And we are not in violation of it now. If both of you will give me a chance, I will try and give you the history.

ACTION PLAN

Senator ANDREWS. You let us know what you did to comply with that law. That is what we would like to hear. We would like to hear what steps, what specific steps you took to comply with the budget figures that you knew were signed into law for the beginning of this fiscal year and when these steps were taken.

Mr. **Taylor**. May I answer?

Senator **Andrews**. Sure.

Mr. **Taylor**. On February 1, 1984, the President's budget requested 987 full-time permanent staff-years and $53,966,000. On June 11, 1984, the House report contained even more than the President's request, or namely, 998 full-time permanent staff-years and $54,400,000. On June 29, 1984, the Senate report contained 914 full-time permanent staff-years and $48 million.

There was no reasonable basis to conclude in June 1984 that the Senate report levels would be enacted since differences between the two reports are resolved in conference. Given that the RIF's take 75 to 90 days to prepare and implement, the Commission would have had to RIF approximately 200 employees early in October 1984 to stay within the $48 million, had the Commission known it would have been enacted.

But that is the point, we didn't know in June or July or August that the Senate figure was going to prevail, because the House figure was $54,400,000. I submit that is quite a substantial difference. Traditionally there is a conference, and that somewhere in the middle a figure is arrived at.

On October 12, 1984, after the beginning of the fiscal year, the continuing resolution locked the ICC in at the Senate bill levels. Everybody said after the conference was over, if they can't live with it, they can come up for a supplemental. Having 1,070 employees onboard on October 1, 1984, the Commission would have had to RIF at the earliest possible date, which would have been January 1985, over 300 employees to get down to 676 employees to stay within the $48 million funding limit. That was far below the 914 staff-year figure that had also been authorized in the continuing resolution.

On October 25, 1984, what did the Commission do about this problem? We voted an action plan. And what did the action plan do? It cut all nonessential spending. And also on October 25, 1984, the Commission voted to request supplemental funds and to prepare an emergency plan to bring the spending and staff levels within the continuing resolution limits, if in fact the supplemental was denied.

On January 24, 1985, the Commission approved an emergency furlough plan: All employees, 1 day per week, 26 work days, between April 15 and October 1, 1985, if in fact the supplemental is denied. Nobody has taken this committee for granted.

And in January and February 1985, we formally RIF'd 38 employees. This, in conjunction with attrition, has reduced our onboard strength to 974, which is consistent with the staff-years sought in the supplemental request.

FURLOUGH PLAN

Senator **Chiles**. Did you start that 1-day-a-week furlough in January or did you say you would do that at some future time?

Mr. **Taylor**. We voted to do it, Senator, and the latest possible date we could begin it as of that time was April 1. We, through attrition, because of the cloud of the furlough hanging over everybody's head——

Senator CHILES. In January, February, and March you didn't do anything?

Ms. GRADISON. We are in compliance, Senator. We have a dollar figure which we have been given to spend for our fiscal year. We know how many dollars and cents we have, we know how many people we have.

In planning for our budget, we have made a request for a supplemental. If we didn't get a supplemental, we knew in order to comply with the funding provided by the Senate and in order to be in compliance with the Anti-Deficiency Act we would have to go forward with the furlough. So we are in compliance.

APPORTIONMENT

Senator CHILES. You are saying you are in compliance with subparagraph 1512 that says: "Except as provided in this subchapter, an obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for that period"?

Mr. TAYLOR. Senator, we have a special apportionment from OMB. They approved our supplemental, in total, everything we asked for. And we asked, so as not to be in violation of the act, for a special apportionment of those funds so we would not be in violation.

We would not run out of money until the middle of August, and we are not going to allow that to happen either. If we don't get any supplemental out of this committee, we are going to adopt the furloughing plan. And the Commission has already voted to do that.

And the last date we have to begin that operation is April 14. So if we don't get some positive word from this committee by April 11, we are into the furloughing program.

This Commission is not going to violate the Anti-Deficiency Act, and we have not violated it now. The OMB has given us a special apportionment of those funds.

Senator CHILES. Let me tell you what I see this Commission is prepared to do. This Commission is prepared to say, we don't give a damn what they said in the Congress about what the total dollar figure is, we are going to run this with the same number of employees just as if we had $53,463,000. That is the way we are going to run it, and we are going to run it right to the wall.

And then those guys up there will have a choice as to whether they are going to require us to furlough all these people and make all them wait because it isn't going to hurt any of us because our salaries are set by law so we will sit up here fat and happy and it will be the employees that they will have to worry about. And they won't do that, they will give us that supplemental.

If that isn't defiance of Congress, I have never seen it. And I have been here 15 years.

Mr. TAYLOR. Senator, we haven't done that. You haven't painted the proper picture.

Senator CHILES. Have you ever contacted me and said there is a problem here?

Mr. TAYLOR. I have tried for 2 weeks to meet with you. I have also tried to meet with Senator Byrd. I have tried to meet with all of the people on this committee.

Senator CHILES. When did that start?

Mr. TAYLOR. So you would know what was going on.

Senator CHILES. Was that in January? When did that start?

Mr. TAYLOR. My legislative affairs counsel has been trying for some time to get an appointment to see you.

Senator ANDREWS. Mr. Chairman, you and members of your staff have met with me on a number of occasions. At no time did I give you or any of your staff any hope that we were, of course, going to restore immediately to the number that you wanted.

Mr. TAYLOR. That's absolutely correct, Mr. Chairman.

Senator ANDREWS. Don't give the impression that somehow or another you had to do what you did because you said you couldn't meet with us and get the proper message. You met with me, as did other members of the Commission, and we told you flat out, that this country has a deficit problem and that everybody ought to share in approaching the solution of that deficit.

And what we are saying is you haven't. And now you are coming in, way late in the game, and saying, please help us from having to RIF these career people down there while you sit in your very posh offices and have your wonderful time twiddling your thumbs or whatever. I am glad you are meeting occasionally together, and it is good to see the whole Commission together. Based on what we heard a year ago, that is a change.

But if this Commission can't take an 11-percent cut in the face of the problems that face this Nation, some haven't got the message of the President. You are sitting back there and saying, but of course we felt that the law was going to be changed, and of course we felt that the Senate figure that was published in July was not going to be held to.

The House didn't even act on a bill. The Senate figure prevailed because the House was dilatory in its movement of this particular bill and anybody who understood the process should have known before October 12, when it was signed into law by the President, that you had to make an 11-percent cut.

Mr. TAYLOR. Do you seriously believe, Mr. Chairman, we should have taken the Senate figure last summer, before there had been any——

Senator ANDREWS. You sure as heck should have obeyed it when it was signed into law by the President on October 12. If you wanted, you know, to guess what was going on, you could have had a pretty good indication of that figure.

Mr. TAYLOR. Are you seriously contending that the Commission should have gotten out a crystal ball and last summer, because the Senate had come up with a $48 million figure and in effect committed the hari-kari at the Commission by getting rid of 200 or 300 people, coming up with a staffing level that we know we couldn't live with? What kind of criticism would I have had from all of you up here if I had gambled on that fact?

FISCAL YEAR 1985 BUDGET REQUEST

Senator ANDREWS. You are living in a very unreal world, Mr. Chairman. The original request was for $53,966,000. We went through this procedure. We have set the figure.

It was signed into law by the President. Now you come back and say you want $53,463,000. You are saying, oh, we can absorb a .009 reduction from the original request. You are living in some magic land.

Mr. TAYLOR. Mr. Chairman, the President approved our supplemental request. The OMB approved our supplemental request. They have known exactly what we have been doing and where we have been coming from.

Senator ANDREWS. Mr. Chairman, let me point out that under the Constitution the Congress still appropriates the funds that run this Government. Let me also point out that we could care less what the Office of Management and Budget said or did or intimated along the line. Your instructions were the instructions in the appropriations bill that was signed into law by the President 12 days after the beginning of the fiscal year and we still would like to know what you did to comply with the law of the land.

Mr. TAYLOR. I went through it. Do you want me to do it again?

Senator ANDREWS. No; we heard. But it certainly doesn't look as though you were following even the President's request——

Mr. TAYLOR. He asked for 949 people.

Senator CHILES. What you are saying, Mr. Chairman, is the appropriation wasn't right. It should have been more. You don't think it was right. And so, therefore, you are not going to go by what that says, you are going to go by what it should be, which was the figure you submitted.

Mr. TAYLOR. Senator, we are going by what you said. If you want us to stay at $48 million and you tell us we can't have any supplemental funds and you are going to deny our supplemental request, we are prepared to live with $48 million. We simply told you how we are going to do it.

In the process we have already lost a large, large number of people. Nobody is sitting here flaunting your authority, taking this committee for granted, accepting that you are just going to go along with this thing. You have the responsibility. It is entirely in your lap. If you want us to stay within the $48 million, tell us now.

Senator CHILES. I think we told you when we passed the bill. That is when we told you. And I think you did exactly what I said you did. You said, we will run the bluff. We will run it just like we had $53 million. We will run it to the wall just like we had $53 million. We will go up there, we will put in for the supplemental, and the blood will be on their hands as to whether they want to cause this to happen or not.

You got your bill 12 days late. I listened to the statement of yours and it sounds like you didn't get the message. You got it 12 days late.

Mr. TAYLOR. We have already saved $2.7 million through a belt tightening plan. I am prepared to go through with you everything the Commission has done to save money, and it is an enormous amount.

Senator CHILES. I see with your supplemental your request will be up to $53,463,000. Your original request is $53,966,000. Now, if that sounds like you have done a lot of belt tightening, that you have complied with the congressionally passed budget, which gives you $48 million, then I don't know——

Mr. TAYLOR. There is a pay raise in there, too, Senator. The point is, where we are now is that we need $3.5 million or we get into a furloughing program. That is really where the ballgame is.

Senator CHILES. Let me tell you what I think the point is. I think the point is that the action now will have to be much more drastic than it would have to be had you started taking the action in October, had you started taking the action in December, had you taken some action in January, had you taken some action in February, had you taken some action in March, and had you taken some action in April.

You didn't do any of that. You sat back and you said, January, we held a meeting, said what we are going to do. We are now putting in our request. We have OMB to go along with that request. And now we have a plan, we got a plan that will save all this money.

If you fellows want to put the blood on your hands to go out there and make that drastic thing, again knowing that it doesn't affect you at all, it doesn't affect you at all, it just affects the employees.

BUDGET CONFERENCE

Senator ANDREWS. One of the interesting things is, I think they have been jerked back into complying to a certain extent with another law, the sunshine law that concerned both of us when they were here before.

And on October 25, they had a meeting on the budget. It makes very interesting reading because they had to have a transcript, a public meeting.

Mr. Foley, the managing director said:

> I agree. And, frankly, maybe I was too candid in my memorandum. If this goes to the Hill, they are going to see my reaction there. If the Commission votes to go for the conference report level, in effect the Commission is saying the Congress knows better than the Commission does what the staffing requirements are to do its work. I wouldn't like to agree to that personally.
>
> Chairman TAYLOR. The fact of the matter is, the Commission voted on 1,022 total staff-years to do the job. And to suddenly conclude now that we can do the same thing with 949, I think, if nothing else, raises a serious question of our credibility.
>
> Mr. FOLEY. I agree.
>
> Commissioner GRADISON. I think the biggest problem is that this is what they have given us. And we have to make a choice as to whether or not we are going to be able to not do our jobs with the $48 million or whether we are going to go back in to Congress and say, Congress, we need this many people to do the job.

Senator **Andrews** [continuing]. Well, you know, if I have ever seen an example of a rogue commission, wandering around and saying Congress set this, they passed the law—I guess under the Constitution we have been doing it for some 200 years—but we don't really think that Congress knows what they are doing, therefore, we shall ignore the law and go about our way.

And I guess you concluded in your mind and it is not down on paper, Mr. Chairman, you concluded in your mind that if push comes to shove and we let this drift for 6 or 7 months, somehow or another somebody is going to patch it up so the lower level employees won't be hurt.

Let me also point out that in last year's testimony Mr. McFarland said:

> * * * the workload figures that are contained in the budget that were transmitted to this Committee were not workload figures provided by my office, they were adjusted after they left my office to reflect the decreased staffing levels that were given to me.

McFarland went on to say they were developed, according to testimony presented on the House side, by members of the staff of the three Commissioners who voted the lower levels.

This whole thing, you know, is an interesting story, a chapter I think we ought to get behind us. Let me look at it in a slightly different way, Mr. Chairman. Even if the Commission ignored the conference report's funding cut and planned on the cut of 7.4 percent, the same as the personnel cut, you would have had a shortfall of only $2 million—according to our figure.

On that basis what is the $3.4 million supplemental request based on?

COSTING TECHNIQUES

Mr. **Taylor**. Well, your numbers aren't correct. I will ask Mr. Foley to respond to that.

Mr. **Foley**. Senator, the Commission's budget was prepared for fiscal year 1985 in 1983, based on four principal programs. We have been converted by congressional action on fiscal year 1985 to an office-by-office, line item budget.

Our costing techniques have improved and we have a much more accurate costing technique and procedure now to show average salary costs office-by-office, nonpersonnel cost office-by-office on an allocation basis which we didn't have available to us when the 1985 budget was put together in fiscal year 1983.

Therefore, it may appear that in some cases the Commission is asking for increased dollars in the supplemental when there is no staff increase in an office. The reason for that is simply that we have changed our budgeting and our allocating procedures. In addition, the effect of attrition and RIF's is to increase average salary costs on a continuing basis.

Senator **Andrews**. Thank you very much. If I could for just a moment, we have a colleague, our good friend, the senior Senator of South Dakota who wishes to make a statement. Senator, we are delighted to have you here. We would be glad to hear from you, if you want to give your statement in its entirety for the record.

STATEMENT OF HON. LARRY PRESSLER, U.S. SENATOR FROM SOUTH DAKOTA

Senator PRESSLER. I want to thank you very much, Mr. Chairman, for allowing me to speak here and I also want to thank Senator Chiles very much. I won't interrupt your line of questioning.

I appear today to express my support for the administration's supplemental appropriation request and to urge this subcommittee to take swift action on this measure. I applaud the chairman's action in calling this hearing today.

I share many of his concerns and agree we have to take a close look and make certain this money is being spent in a manner that truly reflects congressional intent, especially in the deregulation areas.

Quite frankly, I too believe that the Commission has gone beyond its bounds in implementing deregulatory legislation and has more than blurred the line between implementing the laws we pass and, in effect, making its own through administrative fiat.

Rural States like South Dakota are the hardest hit by the push for blind deregulation. We are fortunate to have a spokesman like Senator Andrews to chair this important subcommittee. I enjoy working with him and support his efforts to have the Commission take a closer look at our legislation before going forward with wholesale deregulation, regardless of the consequences. Too much of that has happened in the past. It has got to change. If it does not, I could certainly envisage changing my position on Commission funding in the future.

However, I did have hope and have seen encouraging signs at the Commission. I am afraid that if we do not approve this supplemental, the resulting furlough will cause a mass exodus of the high quality staff and, in general, cause major morale problems.

But even more important from my point of view, I understand that under the present funding plan without the supplemental, ICC field operations will cease to function. This would present special problems for a State like mine.

For instance, 2 years ago South Dakota was threatened with a proposed abandonment of a 200-mile railroad, the only major line in the entire western half of the State. We were able to have an ICC administrative law judge come out to the State to conduct field hearings, and we were able to provide guidance to the local shippers through the ICC Office of Special Counsel.

We ultimately prevailed in our effort to save the line, but I have no doubt that it would have been impossible without these kinds of field operations. They are essential in running any effective enforcement agency.

I might just point out here that it is largely through the efforts of Senator Andrews and others that rural States like North and South Dakota still have available to them many of the services provided by the Office of Special Counsel, and he is to be commended for that.

My basic point today is simply that without this funding there is no hope for a truly effective ICC. Without it, we may as well take back the rest of the money and close its doors.

We do have to more closely scrutinize how this money is being spent, not only in this committee, but through the oversight function of the Commerce, Science and Transportation Committee on which I serve.

I look forward to working closely with the distinguished chairman and members of this subcommittee to do exactly that in the years ahead. But I do think it is absolutely vital that you go ahead now and approve these badly needed funds as soon as possible.

The loyal employees at the Commission deserve it and the policy concerns in States like South Dakota cannot be addressed without it.

I restate my thanks to the chairman for allowing me to appear today.

OFFICE OF THE SPECIAL COUNSEL

Senator ANDREWS. Thank you very much, Senator Pressler. We are glad to have you here with us. This again gets into the magic of the whole case before the ICC because Senator Pressler, as an active fighter for a better break for agricultural shippers, is here testifying mainly that he wants nothing to happen to the Office of Special Counsel.

He cites how helpful it has been to him in South Dakota and how he wants it continued. I understand, Senator, that is the gist of your remarks.

The interesting part of it, that ought to be pointed out, is that the ICC, now before you Senator, came up before us, a year ago, and in their request they wanted to eliminate the Office of Special Counsel. And it was only because this subcommittee directed them to maintain the Office of Special Counsel within the lower, overall figure, or it would be gone in total.

What we are talking about is an 11-percent cut in the overall total. Had they had their way, the Office of Special Counsel would have been eliminated. So who was it, the rabbit or Alice who says it gets curiouser and curiouser?

SUPPLEMENTAL REQUEST

Mr. Chairman, if the requested pay supplemental of $1 million is included, total resources requested would be $53,463,000. This is less than a 1-percent reduction from the original request.

Given this committee's dissatisfaction with the way the Commission has done business in the recent past, why is there no recognition of congressional intent to reduce ICC salaries and expenses reflected in your request?

Mr. TAYLOR. Well, there is a certain amount of creep that comes about, grade creep we call it, as you get rid of people. And that has happened. There is no question about it.

That is nothing that we are responsible for. We have had an enormous number of people leave the agency. And I say again, if you want us to stay at the $48 million level, we are prepared to do it. We could have RIF'd hundreds of people and had no agency left and done it last fall.

All we have tried to do is delay it 6 months, to see if we can't possibly have a hearing up here and get some help from Congress. But if you want us to do it now, and you are upset because we didn't do it 6 months ago, fine. All I am telling you is there isn't going to be any ICC left, and we are not going to need a supplemental.

DURATION OF FURLOUGHS

Senator ANDREWS. If the Commission doesn't receive any supplemental funding, the furlough plan would be enacted. How many days do you now estimate that existing staff will have to be furloughed if no supplemental is forthcoming?

Mr. TAYLOR. We will have to start on April 14, and continue on through the rest of the year. We are prepared to do that. The notice has been issued.

In fact, the new notice went out the other day. Because of the great amount of attrition we have had, we have been able to stretch 2 more weeks out of it. So that instead of starting on April 1, we are now committed to starting on the pay period that begins on April 14.

Senator ANDREWS. How many days will they have to be furloughed?

Mr. TAYLOR. 24 days.

COMMISSIONERS' OFFICES

Senator ANDREWS. Does the furlough affect Commissioners?

Mr. TAYLOR. A couple of Commissioners have indicated some interest in taking it voluntarily. We have been advised by Mr. Foley that legally the Commissioners can't do that.

Currently, the general counsel is reviewing the question of whether or not a Commissioner legally can voluntarily put himself on furlough. There is little or no precedent for it, but we are trying to develop an answer for that.

Senator ANDREWS. Does your furlough plan affect the individual Commissioner staffs?

Mr. TAYLOR. Absolutely. In fact, the House has said if any furlough is to take place, it is to begin with the Commissioners' staffs.

Senator ANDREWS. Well, 30 percent, as we understand it, of the total supplemental request is for Commissioner staffs, is that accurate?

Mr. TAYLOR. 30 percent?

Senator ANDREWS. 30 percent of the total supplemental request is for Commissioners and their staffs?

Mr. TAYLOR. That is not a percentage that I have. Mr. Foley says he can respond to that.

Mr. FOLEY. I think perhaps part of that stems from——

Senator ANDREWS. On your sheet, total supplemental resource request under your heading Commissioners and staff, $1,343,000. It is your sheet, Mr. Foley.

Mr. FOLEY. Yes, Mr. Chairman.

Senator ANDREWS. That is out of the total of $4,463,000, which to me looks like about 30 percent.

Mr. FOLEY. The reason for that, Mr. Chairman, is simply that the $3 million for Commissioners and their offices contained in the continuing resolution still comes a quarter of a million dollars short of funding the salaries and personnel benefits of the Commissioners and their staffs.

In addition, there are nonpersonnel costs related to those offices, costs for transportation of things, transportation of persons, telephone expenses, office space expenses, and so forth, to the tune of $1.1 million.

Senator ANDREWS. As I recall, and I am checking so that I am accurate, in our hearing 1 year ago, Senator Chiles, we developed that Commissioners and their personal staffs of the ICC have a cost of about $541,000 per Commissioner for personal staff of the Commission.

Now, on the average commission around town, that comparable cost is in the neighborhood of $100,000. We felt, you know, you were living relatively high off the hog and that is why we felt we ought to cut to the point where you are only three times the average commissioner's cost in similar commissions around this town. And we did just that.

Now we find that you are coming up with this supplemental, pleading all over the place, talking about these people that are going to have to take the RIF's, the career people and the rest. And we find that 30 percent of your request is for your personal staff.

Mr. TAYLOR. I am sorry, Mr. Chairman, that is an improper characterization. The $541,000 is too high. It isn't for the personal staff. Mr. Foley just pointed out that there are a lot of nonpersonnel costs.

Senator ANDREWS. Total cost per Commissioner for their personal staff was on the record 1 year ago.

Mr. TAYLOR. One of the problems with that figure is that I have some satellite offices that are attached to my office, and they are considered a part of the Commissioners' offices.

SAVINGS

Senator ANDREWS. I know, but, Mr. Chairman, part of this, for instance, the suite space per individual Commissioner is 3,275 square feet. That is two and two-thirds the size of this room for a Commissioner, and what, your five personal assistants?

So this is part of the cost that has been built up and why we thought you could absorb a 10-percent cut.

Mr. TAYLOR. We didn't ask to inhabit that building. That building was built in the 1920's and is very uneconomical as far as the space is concerned.

Senator ANDREWS. Have you turned any space back?

Mr. TAYLOR. That is why we pay as much as we do for it, $20 a square foot. I would love to be able to move out of there. It is terribly uneconomic.

Senator ANDREWS. Have you turned any space back or let other agencies——

Mr. TAYLOR. We have done a lot. Let me tell you what I have done with myself and satellites, and perhaps the other Commissioners would like to tell you what they have done.

In the Chairman's office, I am talking about my own personal office now, you cut me down to seven people. We did that. As fast as we had the word, and we were able to get down, we got down to seven people.

In the satellite offices, we have cut two people in SBAO, a person out of public affairs, cut one out of EEO, and we have cut two out of the legislation and governmental affairs office. The savings numbers on that come up to a total of $210,184. That is my office and the satellite offices.

In addition to that, we have relinquished space. In my own office, I have given up 900 square feet. In the satellite offices, we have given up in public affairs 250 square feet and in legislation and governmental affairs 760 square feet. That whole total comes to almost $34,000 of savings. All of this has been done voluntarily.

In the travel area, we have frozen travel in headquarters. One of our people from public affairs wanted to fly to Atlanta yesterday to proofread our annual report, which we submit to Congress, because that is an important report and we wanted it to be accurate. But I refused to let him go. Nobody flies, nobody goes anywhere at the present time.

And Commissioners have done that as well. I was originally allocated $20,000 for travel in the Chairman's office. We cut $16,000 of that out. The only reason that $3,800 was spent is because it was already committed before we were able to take the action.

I have even done such things as give up subscriptions. I have downgraded the copier in the office. I have had telephones removed, which saved $3,500. Mr. Foley would be glad to tell you what is going on in the other bureaus and offices, if you give him a moment. I will be glad to put that on the record.

Senator Andrews. Mr. Chairman, all of this is very pleasant but the facts that we are given show that the Commissioners and their personal employees occupy close to 600 square feet per employee. The GSA standard for square feet per employee is 135.

I welcome the cuts and all of that, but it is not all that convincing when you look at the fact that you are occupying four times what GSA recommends, more than four times. The 1985 appropriations report provided 36 slots for Commissioners and their offices. How many staff persons does each Commissioner now have?

Mr. Taylor. Could we, before we do that, quickly talk about the space in the building?

Senator Andrews. Are our figures wrong, Mr. Foley?

Mr. Foley. Yes; with all due respect, I believe they are.

Senator Andrews. We get them from you. These are all from you. Let us put in the record the source of the figures that I was just citing which have come from the various offices and then you may for the record comment on these figures that were supplied to our staff.

Mr. Foley. I will be glad to.

SIZE OF COMMISSIONERS' STAFFS

Senator ANDREWS. If you supplied us erroneous figures, then obviously maybe some of ours are inaccurate. But I think getting them on the record as you supplied them to us is necessary, and then we will let you comment on them, to point out where you sent up erroneous figures to us in the first place.

To get back to that question, you can answer, Mr. Foley, how many staff persons does each Commissioner now have?

Mr. FOLEY. Mr. Chairman, I didn't bring that information this morning.

Senator ANDREWS. Are each of them down to six persons per office level?

Mr. TAYLOR. I frankly don't know the answer to that.

Senator ANDREWS. Can you provide that?

Mr. TAYLOR. They are here. They can respond.

Senator ANDREWS. The total staff employed by month?

Mr. TAYLOR. Go down the line and ask them.

Senator ANDREWS. Let's go down the line. We will start over on this side. Sir, how many personal staff members do you have?

Mr. SIMMONS. Six including myself, sir.

Mr. STERRETT. I have six. I am one over at this point.

Ms. GRADISON. I have six including myself.

Mr. ANDRE. Six including myself.

Mr. LAMBOLEY. Six including myself.

Mr. STRENIO. Mr. Chairman, I have a staff-year average where I am expecting by the close of the year my staff will be at least one staff-year below the allocated six.

Senator ANDREWS. Thank you. In the original request for Commissioner's offices, $58,541 per staff-year was budgeted. The supplemental request is for $66,815 per staff-year. This is a 14-percent increase, as we look at it. Why?

Mr. FOLEY. Mr. Chairman, I am sorry, I am not familiar with your figures. I don't know how you have interpreted them. We would like to supply that for the record, if we may.

Senator ANDREWS. We would be glad to have you supply that for the record.

COMMISSIONERS' VIEWS OF ICC

Senator ANDREWS. Commissioner Andre was recently quoted in the Washington Times, March 21, saying there are about 250 people out there in our field offices but their work is largely anachronistic. Some of them are doing little more than sending us newspaper clips.

Do other Commissioners share this sentiment?

Mr. TAYLOR. I do not.

Ms. GRADISON. I am not totally satisfied with the way our enforcement staff follow our directions. We have established an opportunity to communicate with them on a daily, weekly, monthly, quarterly, and annual basis. They have gotten our message about what we would like them to do and that they are not there to outline priorities.

And I think we need to review our field staff's role. But at this time I have to say that I disagree with Commissoner Andre.

Senator Andrews. Would Commissioner Andre comment on that?

Mr. Andre. Yes; are you referring to the reported verbiage where I said that some of their functions are anachronistic and counterproductive?

Senator Andrews. Yes.

Mr. Andre. In this period of moving toward deregulation and reduction in staff and so on, we do have to seriously reassess our priorities for the enforcement division.

And just to give one case in point, I think it somewhat tells the story. We have taken a list of something like 20 enforcement functions and we have taken a fraction of those functions and put them in a higher priority category than the others.

[The information follows:]

Enforcement Policy

Memorandum from the Commission to the Office of Compliance and Consumer Assistance—enforcement staff:

1. *Enforcement guidelines and directions*

The goal of the ICC enforcement program and policies should be the advancement of the National Transportation Policy for all modes of transportation. Since this policy includes a promarket mandate, enforcement activities should encourage marketplace solutions and deemphasize reliance on Federal intervention, where possible.

In order to give the staff of the Office of Compliance and Consumer Assistance [OCCA] guidance on the use of its resources for furthering the National Transportation Policy and Commission Policy, it is necessary to establish enforcement priorities. For example, several categories of violations, consisting of behavior which is condemnable wholly apart from the regulatory setting, should normally be viewed as matters for full-scale enforcement action. Those would include kickbacks, threats of force in loading and unloading, consumer fraud, and willful fraudulent misrepresentation. Matters involving restraints on competition, safety violations, or inadequate insurance coverage should also be pursued vigorously.

These violations are of the type characterized in the 1982 Senate and House Appropriations Committee reports as "more serious." For example, restraints on competition are included in the rubric "antitrust," while consumer fraud would include weight bumping, and willful fraudulent misrepresentation would include ethics violations, overcharges, duplicate payments, and misappropriation of c.o.d. funds rightfully belonging to the consignor of the freight.

Accordingly, the Commission identifies the following types of violations as those which should receive a high emphasis in the allocation of enforcement resources. All other types of violations would be identified as falling within a low-emphasis group, with the understanding that no violation of the law will be ignored, and the more flagrant and serious violations will be pursued, regardless of placement in an emphasis group.

ENFORCEMENT CATEGORIES IN HIGH EMPHASIS GROUP (IN ALPHABETICAL ORDER)

Antitrust
Ethics
Fitness/safety
Household goods
Illegal lumping
Insurance
Kickbacks

Overcharges/duplicate payments/c.o.d.
Owner-operator problems
Unauthorized passenger carrier operations
Weight bumping

Those violations identified in the high emphasis group should receive the greatest allocation of enforcement resources. The allocation of resources to all other areas should reflect a reasonable anticipation of public benefit. Complaint experience should be used as one indicator of public need. Accordingly, OCCA is directed to continue to rely upon complaint data as an indicator of public need for Federal intervention. Where the "more serious" types of violations previously identified as items in the high emphasis group will not receive adequate attention as a result of complaint-driven investigations, OCCA is directed to allocate enforcement resources in order to address such areas.

2. *Periodic review of the enforcement program*

OCCA should be accountable for its use of enforcement resources. The May 1984 GAO Report recommended that the Commission improve its maintenance and use of data to assess how enforcement program resources are actually being applied and what results are being achieved in relation to the program goals and priorities.

OCCA is directed to proceed with modification of the enforcement data system, so that the revisions are operational by October 1, 1984.

OCCA is also directed to submit a quarterly report to the Commission on the enforcement program. This should be in two parts, with a separate section for each region in each part. The first part should be a forecast of activities and resources to be allocated in the ensuing quarter, and the second part should show the results achieved and the resources used in the preceding two quarters.

LOWER PRIORITY CATEGORY

Mr. ANDRE. One of the functions, which is in the lower priority category today, is undercharges. And yet today the OCCA, particularly in such cases as the International Paper case, and others similar to it, is nevertheless, counter to the instructions of the Commission, still pursuing undercharges vigorously.

Now, undercharges which are an agreement between a shipper and a carrier don't hurt any third person. And we have instructed them accordingly. And it is, I think, in good judgment that they should direct themselves to more fruitful areas where it does, in fact, impact on third parties where other people are injured.

And this is part of what I was referring to. The other portion of my remarks that were quoted has to do with newspaper clips. And I do have it here for the record, if you wish to have it, Senator, the activities of some of our enforcement people sending us newspaper clips. I can produce that for the record, if you like.

COAL RATES

Senator ANDREWS. There has been a coal rate proceeding before the Commission since 1983 that would automatically allow annual rate increases of 15 percent after inflation, if certain preconditions are met.

The coal industry claims that the 15-percent level per year is much too high since it could potentially quadruple rail coal rates over 10 years. On what basis was this 15-percent figure derived?

Mr. TAYLOR. Mr. Chairman, that is a proceeding that is currently before us. It is Ex Parte 347, Sub-1. The original proposal suggested,

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not as a guaranteed floor but as a ceiling, that we would not let coal rates rise more than 15 percent per year.

We did not suggest for even a moment that they were to be guaranteed a 15-percent-a-year increase. That is the way that proposal has been construed. It was one of four constraints that were proposed at the time.

It was plucked out of the basket, held up for the world to see as hey, look what the ICC is doing now. They are going to guarantee the railroads a 15-percent increase a year.

That is not what was intended and not what was proposed. I think it is very clear from the oral argument we have already had, that the 15 percent is by the boards.

When we noticed the oral argument and suggested the matter should be discussed at that time, we made it clear to the parties that the 15 percent was no longer a consideration. Where are we now in the schedule of meetings that we have set forth? We have a scheduled conference to decide Ex Parte 347, Sub 1, the most important matter on our plate at the moment. It will be attended to at that time. I can't really say anything more about what the constraints will be and what that final rule would be.

Senator ANDREWS. But that conference on this rule, which is relatively important, will be an open conference?

Mr. TAYLOR. It most certainly will. That is the most important matter on our plate, and there is no other way we would do that.

Senator ANDREWS. You got part of the message last year. Last September the U.S. Court of Appeals overturned the Commission on its decision on export coal rates. What is the status of the Commission's appeal?

Mr. TAYLOR. The matter has been appealed to the Supreme Court. At the present time, the Commission, with the Solicitor General, is seeking a writ of certiorari from the Supreme Court. We probably will have an answer, the Acting General Counsel tells me, by sometime late April or perhaps in May as to whether or not the Supreme Court will grant certiorari. Of course if it does, it will be sometime after that before the case is decided on the merits.

REVENUE ADEQUACY

Senator ANDREWS. A key financial test in determining how much pricing freedom railroads can have is the cost of capital test used to determine revenue adequacy. The Commission has held that a railroad is revenue adequate if it earns a rate of return equal to the current cost of capital. A revenue adequate carrier does not have the same rate freedoms as a revenue inadequate carrier.

First, what is your latest revenue adequacy figure for the railroads and what railroads meet that standard?

Mr. TAYLOR. I don't think any of them meet it. It is 15.3 percent.

Senator ANDREWS. How can a revenue inadequate railroad like the Norfolk Southern, purchase Conrail with a bid of $1.2 billion? That bothers us. How accurate are the revenue adequate figures anyway?

Mr. TAYLOR. Ron, do you want to talk a little bit about revenue adequacy? By way of background, that is a proposal that was done and adopted, and it has been upheld in court, on current cost of capital. There have been all kinds of suggestions since, that we ought to look at other kinds of things.

The CURE legislative proposal suggests we ought to examine a lot of things. But the utilities would have us get into the same straight jacket they are in. Maybe the public utilities need a Staggers Act; I don't know.

Revenue adequacy is a term that is used by the Commission to measure the long-term financial health of the railroad. It has nothing to do with cash funds that are available in the short term. It has nothing to do with cash that the Norfolk Southern may have as a result of ERTA and other legislative actions taken here by Congress. It has to do with long-term financial strength and viability.

Another thing a lot of people don't remember is when these acquisitions occur, they are made by a parent company and not by a railroad. One of the reasons that the parent companies have decided to diversify and get into things other than railroads is because railroads haven't been all that profitable as such. Otherwise, they wouldn't have gotten themselves involved in other endeavors.

Senator ANDREWS. Mr. Chairman, I have a number of other questions I would like to submit for the record. They are somewhat technical questions that are important to us in consideration of this matter.

But because he has a busy schedule, I would like to yield to Senator Chiles now. And, as a matter of fact, I have to chair another hearing in 10 minutes. Senator Chiles?

GOVERNMENT IN THE SUNSHINE

Senator CHILES. Thank you, Mr. Chairman. At last year's hearing we learned that the ICC had not held a public meeting in 19 months and it conducted about 3,000 votes by notations, including such controversial issues as export coal and boxcar deregulation.

On May 10, 1984, the Commission adopted a new rule to require all significant cases to be discussed and voted on the public record. Since May 10, 1984, the ICC has taken 7,427 votes and handled 1,916 cases.

Of those, 12 cases have been voted on in public. One of those was the May 10 meeting to establish the new process and two of the public meetings were to discuss the 1985 supplemental and the 1986 budget.

Therefore, only 9 substantive transportation issues out of 1,916 cases or less than one-half of 1 percent of the cases decided since May 10 of last year were handled in public.

Mr. Taylor, as you know, following last year's hearing the Senate directed the ICC to follow the intent of the spirit of the Sunshine Act in scheduling all significant issues to be discussed and voted on in public meetings.

Is it your judgment that holding less than 1 percent of your votes in the public satisfies the spirit and the intent of the Sunshine Act?

Mr. TAYLOR. Let me say, Senator, that we developed this rule with the full understanding that we had not had, as you criticized us for last year, enough public meetings. I welcomed the new rule. As you know, I discussed it with you in advance of its being officially adopted by the Commission.

A member of your staff was present when we discussed openly the adoption of the open meeting rule. We announced at that time the cases that we were going to hear last year that were within the rule of significant matters of major transportation importance.

We combed the Commission to identify all of those. And I think in terms of the rule that we have adopted, there is no question but that we have lived within the spirit of it.

Let me say a couple of other things. This is just a beginning. I don't want to tell you that as of this point in time we have done all that the Commission can do to promote collegiality in the Sunshine. I think there is a lot more to be done.

One of the things you have mentioned is all of these other cases, and it is not even really fair to characterize it as an apples and oranges comparison. It is more like comparing a watermelon to a holly berry, because we do literally hundreds and hundreds and hundreds of little, tiny miniscule cases that do not involve major issues, such as a very short piece of track that is to be abandoned where no one protests the abandonment. That doesn't require any intellectual output, as far as the Commissioners are concerned. It is almost in the nature of being a ministerial task. And yet those decisions have to be made.

We are, in the course of the reorganization study that we are involved in now, endeavoring to figure out some way that we can handle those more routine cases in some more routine fashion, perhaps by employee boards, perhaps in a different way than they are currently being handled at the moment.

When we are done with that, what we will have left is just the terribly important and significant matters.

So, when you talk about a comparison between 1,916 and 12 that went to conference, that is really a very, very unfair comparison, because what we are talking about is a lot of routine, almost ministerial decisionmaking.

NUMBER OF SIGNIFICANT CASES

Senator CHILES. Is what you are telling me then that you consider that less than one-half of 1 percent of your cases involve significant issues?

Mr. TAYLOR. I don't know whether it is 1.5 percent or whether it is 2 percent or 3 percent, but it is a very, very small percentage of cases that are of the kind like the CSX-ACL barge case, or the Milwaukee case, in which enormous numbers of hours go into the preparation of those decisions, not only from the staff but from the Commissioners and from their staffs.

And they are not just one case. In a case like the Milwaukee, you have a multifaceted issue situation, where there may be 25 or 30 different issues, all of which have to be carefully explored, carefully examined, voted upon, and discussed. Those are terribly complex cases.

We have the Southern Pacific merger case coming down the pike. You cannot put that side by side with abandoning one-half mile of track that everybody in the Commission is in agreement with. The only problem you may have in the abandoment case is correcting some typographical errors, which, by the way, if we were to do in a conference downstairs, probably wouldn't get attended to. Nobody in the public is enlightened by that sort of thing.

As a matter of fact, if we can work it out, that kind of decisionmaking should probably be done through some kind of an employee board or different arrangement from what we have now, so that the Commission can concentrate on the small percentage of terribly important cases that really demand our attention.

We are trying to do that within the context of the reorganization study that is now in progress.

Ms. GRADISON. It is like comparing a quorum call to a vote on the MX.

Senator CHILES. What I am trying to determine is whether you have a rule that isn't really promoting Sunshine, if there are significant cases that are not being held in the open, or if you are following the rule. I see some of the cases that you held in the open meetings and it looks like to me that those are meaningful cases. I am glad to see that.

But, on the other hand, if 99.5 percent of your cases are insignificant, and are not important, if you are handling less than one-half of 1 percent, maybe we ought to be looking at sunset up here rather than a setup there without the Sunshine.

Mr. TAYLOR. That is one of the things we have been proposing for some time, in the trucking area particularly. You cannot believe the paper shuffling that goes on in the trucking area today.

Yet Congress has not acted, so we are compelled to go through with it.

STATUS OF TRUCK DEREGULATION

Senator CHILES. What is the status of truck deregulation?

Mr. TAYLOR. We hope very much there is going to be a bill proposed. There was one that we worked on together with DOT a couple of years ago.

Senator CHILES. Last year you told us you supported total economic truck deregulation by January 1, 1987.

Mr. TAYLOR. I did and I do. What we need now is congressional action. I understand Senator Packwood is going to have a bill that he is going to propose sometime this fall, according to the trucking industry and Commerce Committee staff as well.

Senator CHILES. Has the administration submitted the bill?

Mr. TAYLOR. We hear they are working on a bill. The last time I had a discussion with Secretary Dole about this, I was led to believe there was a bill being prepared, but I haven't seen it. We haven't been involved in it.

But, I think probably where we are is that this is going to be the year of the rail and 1986 will be the year of the truck. And the sooner it comes the better, as far as we are concerned, because that is a big, big part of our problem. We are involved in what amounts to a monumental paper shuffling operation. And I don't know how anybody can possibly take any comfort from what we are doing in the trucking area.

SCHEDULING OF OPEN MEETINGS

Senator CHILES. Since we met last year, three new Commissioners have joined the ICC, Commissioners Simmons, Lamboley, and Strenio. Are the new Commissioners aware that upon the written request of any member of the Commission, the Chairman shall schedule an open meeting?

Mr. SIMMONS. I have been informed, sir.

Mr. LAMBOLEY. I am aware.

Mr. STRENIO. I am also aware of that, Senator.

Senator CHILES. Mr. Taylor, since May 10, 1984, have you dissuaded any members from requesting an open meeting for any case?

Mr. TAYLOR. No; I haven't. There were, I think, two occasions when one Commissioner suggested that perhaps an open meeting would be worthwhile and both of those cases were resolved without having any further meetings or discussions about them at all.

One of them became moot. I think it was the Fiber Optics case. And the other one, I can't recall the name of off the top of my head, but I believe the suggestion came from Commissoner Lamboley in this case. Maybe he has the specifics in mind.

Mr. LAMBOLEY. Senator, the other one is Buckeye Cellulose and I am not sure whether the decision has cleared yet, but the matter was resolved following a General Counsel's opinion and the issue should be public soon.

Senator CHILES. Let me just say, I don't know what the merits of the case are, what the matter was, but the purpose for the rule is not to allow the member that makes a written request to get his satisfaction, so to speak.

The purpose for the rule is to allow the public to see what is going on down there.

Mr. LAMBOLEY. I understand that, sir.

Mr. TAYLOR. I think what he is saying is, there wasn't anything to see because one of the cases became moot and the other one was resolved. All of the Commissioners are anxious to have more and more Sunshine meetings. We have talked about that among ourselves and that is the message. If I can't leave anything else with you on this particular matter, Senator, we all believe in collegiality of the Sunshine.

We want to do more things in the open. And we are making every effort we can to do more of it. I want you to understand what we have done so far is just a beginning.

Hopefully, next year there will be twice this number of pages listing Sunshine meetings.

Senator CHILES. The other question I would like to ask for all of the Commissioners is, Is there any Commissioner here who felt that cases decided in the comfort of the notation voting process involved significant issues and should have been handled in the public according to the new Sunshine rule?

Mr. SIMMONS. Senator, I view each case. I don't minimize the thought that each case is routine at all, because each case is important to every person that is being considered.

And as far as I am concerned, I would just as soon vote everything in Sunshine as not. It would take up more time, but I view each case very objectively and independently in my thinking and with a lot of thought because, having been a small businessman and some of those truckers are small businessmen, I think about each one of them very carefully, because a few years back in another life it could have very well been me.

Mr. STERRETT. Senator, I agree with Commissioner Simmons. I will say, however, that all of the cases that were significant in the large transportation sense were the ones we picked out for conferences.

And I do not believe we missed any in this past year.

Mr. TAYLOR. I would agree with Commissioner Sterrett on that too. We worked very hard to make sure the important ones got in there.

Ms. GRADISON. I agree with Commissioner Sterrett.

Mr. ANDRE. I identify with those remarks as well. I might point out that I have been keeping track of the number of times I have voted. This month it is 3 years that I have been at the Commission and I have voted now just over 5,000 times.

And in my judgment the number of Sunshine meetings that we are having is the appropriate amount.

Mr. LAMBOLEY. Senator, since joining the Commission I think my record is fairly clear and my statements have been fairly clear. I favor hearings and I favor open conferences at the Commission.

Mr. STRENIO. Senator, I agree with what has been said so far by my colleagues, and I would just add that I would certainly not hesitate to call for an open meeting if I felt the matter so indicated.

SUBMITTED QUESTIONS

Senator CHILES. I thank you for those answers. I have several questions I think I can submit for the record, along with the questions submitted by Senators Andrews, D'Amato, and Pressler.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ADMINISTRATION

SENATOR ANDREWS: In the report accompanying the fiscal year 1985 appropriation, a number of management reforms were suggested (e.g., consolidating small offices). What have you done in this area?

ANSWER: The Commission has consolidated the Governmental Affairs Office and the Legislative Counsel's Office. Future action with regard to the specific organizational changes suggested in the Committee Report are being considered within the context of a major organization study currently being carried out. The Commission is in the process of examining its organizational framework in an effort to identify structural changes which will promote more effective and efficient operations, especially in the event of further regulatory change. Proposals for change will be considered by the Commission in developing its FY 1987 budget and will be implemented during FY 1986.

SENATOR ANDREWS: It does not appear that the Commission is really planning to do anything less or anything different than it has in the past. Is that an accurate statement? Are you consolidating, reorganizing or making any changes to the existing structure or workings of the Commission?

ANSWER: The Commission expects to make decisions early this summer with regard to the recommendations for organizational change which will result from the study currently being carried out. These changes should be ready for implementation before the end of FY 1986 and are expected to have budgetary impacts in FY 1987. In addition, Bureaus and Offices are continuing to identify more productive and cost-effective ways of carrying out currently mandated functions within the framework of the existing organizational structure.

SENATOR ANDREWS: The Commission has experienced quite a reduction in responsibility and staff due to deregulation of a number of industries. Has the ICC been reorganized during this time to better reflect the current environment? If so, what has been done? If not, why not?

ANSWER: A number of organizational changes have occurred since the passage of regulatory reform legislation to better reflect the changes in environment.

The Office of Transportation Analysis, which was formerly known as the Office of Policy and Analysis, was restructured and its staff size significantly decreased to reflect the shift in responsibility from a policy development role to analysis of the impacts of legislative or policy changes, and for casework.

The Office of Compliance and Consumer Assistance was formed to strengthen the Commission's enforcement program by integrating compliance and enforcement activities and to establish priorities consonant with changes in the National Transportation Policy as enumerated in the motor, rail, and household goods acts.

The Bureau of Accounts' regional structure was reorganized resulting in reductions in the number of field auditors, placement of the remaining auditors in closer proximity to railroad workload, and elimination of 6 Regional Auditor positions by shifting management of the field staff to headquarters.

The Office of Proceedings was divided into modal (motor and rail) sections. Several employee review boards were consolidated.

In addition, various procedural and recordkeeping functions previously performed by the Office of Proceedings and the Office of Compliance and Consumer Assistance were transferred to the Secretary's Office, centralizing most of the "clerk of the court" support functions relating to the Commission's casework.

The Bureau of Traffic combined two of its employee boards, the Special Permission Board and the Suspension Board. This resulted in a reduction in the number of organizational units and resource requirements.

The Legislative Counsel's function, which was recently consolidated with Governmental Affairs, was incorporated into the Chairman's Office to improve liaison with Congress.

Realignments of the administrative support staff in the Office of the Managing Director were also accomplished. This included the elimination of two of the original six sections providing administrative support of various types.

These reorganizations and realignments were accompanied by major staff reductions and cost savings; in many cases, involuntary separations and demotions resulted from the necessary reductions in force. The Commission's efforts to reduce costs while maintaining an efficient organization responsive to its legislative mandates are continuing.

SENATOR ANDREWS: What management efficiencies have been implemented by the Commission during the past few years? Have the changes resulted in reduced staff and/or costs? What activities were affected by these new ways of doing business?

ANSWER: A number of management efficiencies have been implemented since the first passage of major transportation regulatory reform legislation during 1980.

The processing of temporary and emergency temporary authority applications was streamlined with the transfer of responsibility from headquarters to the field. This resulted in staff savings as well as faster response time. Prior to decentralization, emergency temporary authorities took from two to three months from filing to decision and temporary authorities took six to nine months. The current processing time is an average of two to three days for emergency temporary authorities and approximately 24 days for temporary authorities. In addition, permanent motor carrier licensing cases, which took an average of seven to twelve months to process prior to passage of the Motor Carrier Act, are now being processed in an average of two to three months.

A number of actions were undertaken to automate recordkeeping and improve service to the public. As a result, applications in motor carrier operating authority cases are accepted on a "walk-in" basis, docketed, microfilmed, and made available to the public within a few days of filing. Docket numbers are automatically assigned by a computer system which works off an automated data base of authorized carriers. In addition, the Commission's carrier data base (Chaindex System) was remodeled. The system provides the latest three years of a carrier's revenue reported to the Commission and displays all applications filed by that carrier during the last six years. This system permits the

Commission to handle public inquiries promptly. The system for serving parties to proceedings (Process Serving System) also was automated. This system simultaneously produces service lists and mailing labels for Commission use, and service lists for parties who must cross-serve pleadings. In an effort to further simplify applications processing, the Commission also merged the units involved in recording pleadings. As a result, the data is now captured at one time to serve multiple purposes.

Another example of ICC's efforts to operate more efficiently is evidenced by the curtailment of free distribution of ICC decisions to all but government agencies and the news media. Interested parties still can acquire copies of decisions and notices from an independent contract service but must pay for them. The Commission also began a subscription program for a daily listing of ICC decisions. Subscribers, both local and outside the Washington, D.C. area, have quick access to a daily list of Commission decisions at a nominal cost. In addition, the Commission commenced publication and distribution on a subscription basis of the ICC Register, a publication which provides public notice of various types of motor carrier applications and filings made with the Commission. The transfer of these notices from the Federal Register to the ICC Register has resulted in a substantial reduction in the amount the Commission pays for Federal Register publication.

The Commission completely restructured its rules of practice. This was a significant change, since it consolidated into one section of the Code of Federal Regulations all the procedural rules which show how the Commission operates and how outside parties must proceed when dealing with the ICC. This was the first time that such a major restructuring of the rules of practice was accomplished.

The Commission also completed its User Fee Study and implemented a revised User Fee Schedule to ensure full cost recovery for the work performed by the Commission that benefits private interests. The new schedule includes seventy-two separate fee items, which is an increase of twenty-three over the previous schedule.

A number of management efficiencies have been implemented in the compliance and enforcement area. After the enactment of the Motor Carrier Act of 1980, routine compliance audits of motor carriers were no longer considered necessary because of the greater rate freedoms provided by the legislation. The rail ratemaking provisions of the Staggers Rail Act of 1980, however, increased the importance of accurate cost data from the railroads. As a result, motor carrier audits were significantly reduced and the audit program was redesigned to emphasize audit of the 41 Class I railroads. Thus, the need for field audit staff was decreased.

In 1980, a management study was conducted to determine if the maintenance of a separate public tariff file by a private contractor was still cost effective. The results of the study indicated that the public file could be eliminated in due time and the official file could be used to serve the needs of both the Commission and the public. This was accomplished in two steps, by first cancelling the contract and moving only major tariff publications in the public file back in-house. Subsequently, we discontinued the duplicate file altogether.

Also in the tariff area, the Commission completely revamped its tariff filing rules and, in doing so, eliminated the need to process thousands of requests for rule waivers.

The Commission approved and implemented recommendations of its Data Reduction Task Force, decreasing the reporting burden of carriers and eliminating reports not used on a regular basis. This effort has produced significant cost savings for both the Commission and the carriers.

Also, in line with the recommendation of the General Accounting Office, the Commission upgraded the data system which stores enforcement case information and revised the standards for measuring the effectiveness of enforcement activities.

The Commission has implemented a number of systems to streamline and provide for accountability in administrative management areas. Significant improvements were made in monitoring and reporting on the use of Commission staff resources through implementation of a full-time equivalent reporting system. Managers are provided with current and precise data on staff usage for established increments of time. Review and analysis of this data assists managers in making more informed decisions regarding staffing and program related alternatives. It should also be noted that the Commission has made a number of organizational changes in the past 5 years, which have reduced management, administrative, and supervisory costs; these changes are described in the answer to the previous question.

Significant improvements have also been made in the accounting system with regard to the computerized capture of cost data. As a result, it is now possible to assign costs to organizational components with greater precision.

The Commission's efforts to identify and implement administrative and management improvements have resulted in significant dollar and staff-year savings. Managers are continuing to seek new ways of accomplishing mandated work in a more efficient and cost effective manner.

It should also be noted that the Commission has made a number of organizational changes in the past 5 years, which have reduced management, administrative, and supervisory costs; these changes are described in the answer to the previous question.

SENATOR ANDREWS: The Conference Report cut ICC funding by 11.1 percent and staff by 7.4 percent. Why have you been unable to meet these two Congressional directives?

ANSWER: The ICC has initiated measures to live within the $48 million and 914 full-time staff-years contained in the Conference Report for FY 1985. These levels represent reductions of 15 percent in funds and 18 percent in total staff-years from the actual spending and staff resources employed in FY 1984.

Since passage of the deregulation legislation of 1980 and 1982, the Commission has taken steps which significantly reduced its spending and resource levels, while maintaining its effectiveness and attempting to limit disruption to its workforce. The $6 million (or 11 percent) cut from the FY 1985 request required drastic measures, either extensive RIFs or furloughs. If the dollar reduction were accomplished largely through RIFs, the result would be a 40 percent cut in on-board staff, not the 7 percent cut in staff-years you have cited. This would jeopardize the accomplishment of the agency's mission. The furlough plan voted by the Commission will allow the agency to maintain a rational organizational structure capable of carrying out its responsibilities (although there will be workload backlogs in every office), while remaining within the prescribed funding level. Also, the ICC will be in a position to enter FY 1986 at a level commensurate with our regulatory responsibilities under current law.

SENATOR ANDREWS: What specific steps did the Commission take to comply with the Congressional direction? When were these steps taken?

ANSWER: The following describes the chronology of events which occurred in response to Congressional action on the ICC's FY 1985 budget.

- October 12, 1984 - The Continuing Resolution was passed by Congress; it provided $48 million and 949 total staff-years to the Interstate Commerce Commission.
- October 25, 1984 - The Commission held an open conference on the FY 1985 budget, at which time it decided to: (1) restrict all non-personnel spending to only the highest priority items, (2) develop emergency alternatives which would limit spending to the approved level, and (3) request a supplemental appropriation to continue performing current statutorily-required functions in a timely fashion.
- January 24, 1985 - The Commission approved the emergency furlough plan.
- January, February 1985 - RIFed 38 employees.
- February 14, 1985 - Upon review of the impact of the Action Plan through the end of January, reduced the number of furlough days per person from 28 to 26. Continued with Action Plan austerity measures.
- March 1, 1985 - Issued furlough notices to all employees.

SENATOR ANDREWS: Even if the Commission ignored the Conference Report's funding cut and planned on a cut of 7.4 percent, the same as the personnel cut, it would have a shortfall of only $2 million. What is the $3.4 million supplemental request based on?

ANSWER: The $3.4 million necessary to fund operations at the staff-year level approved in the Conference Report is based on updated estimates. These are actual October 1984 average compensation costs per staff-year by Bureau and Office and the costs for space, communications, utilities, and other non-personnel expense items estimated at that time.

If the Commission had cut employment by 7.1 percent, from the 1,022 total staff-years requested in the President's FY 1985 Budget to the 949 total staff-years approved under the Continuing Resolution, it could not have reduced compensation costs by the same 7.1 percent. Civil service rules regarding tenure, coupled with the greater job mobility of lower-graded employees, virtually ensure that the reduction in employment will be disproportionately greater than the resulting reduction in compensation costs. As an example, the average salary of the employees who actually separated during the period from October 1 to December 31, 1984, was only $29,000 compared to a Commissionwide average salary at that time of $36,000. Using this comparison, a reduction of 7.1 percent from the requested staff-years would result in a reduction of, at most, 5.7 percent in personnel compensation expenses.

Similarly, during the period between the end of FY 1983, when the FY 1985 budget estimates were developed, and the beginning of FY 1985, salary costs declined at a significantly slower rate than did on-board employment. The FY 1985 budget estimates were developed based on the assumption that salary costs would decline almost in direct proportion to the decline in employment. However, of the 200 people who left the agency during that period, most were lower-graded employees whose salaries were significantly below Commissionwide averages. Consequently, salary expenses declined at a far slower rate than had been estimated. The average salaries of the remaining Commission employees (adjusted to remove the effects of general schedule pay raises) increased approximately 4 percent during the period.

By the start of FY 1985, salary costs for the 1,022 staff-years requested in the President's Budget were significantly higher than were the dollar estimates for salaries contained in that request. If the FY 1985 President's Budget had been approved at that requested level of $53.966 million, the ICC would have reprogrammed some of the savings we are now achieving in non-personnel expenses in order to cover the difference in the costs for salaries. However, the magnitude of the reduction in funding provided under the Continuing Resolution effectively eliminated that flexibility.

SENATOR ANDREWS: If added to the Commission's FY 1985 budget appropriation, the supplemental request results in a budget of $52.5 million, only $1.5 million below the original request (or a 3 percent cut from that originally requested). When other agencies are asked to absorb minimal cuts of 5 to 10 percent, why can't the Commission do better?

ANSWER: In FY 1984, the Commission spent $56,562,000. The total supplemental request of $52,463,000 is 7.2 percent below the FY 1984 spending level. The amount necessary to fund fully the staff level approved in the Continuing Resolution is $51,405,000, 9.1 percent below the FY 1984 level.

Although these levels may appear modest to some, the fact is that since the onset of deregulation in 1980 the Commission's staff level has fallen over 55 percent. Further, over 75 percent of the Commission's budget consists of employee salary and benefit payments, which, on a per person basis, increase as an agency conducts RIF's, loses junior people, and hires virtually no new employees. The Commission's non-personnel costs can be reduced to some extent; however, these costs are primarily necessary to support costs of supplies and materials, essential program travel and small contracts to gather information required to discharge statutory responsibilities.

SENATOR ANDREWS: If the requested pay supplemental of $1 million is included, total resources requested would be $53,463,000. This is less than a one percent reduction from the original request. Given this Committee's dissatisfaction with the way the Commission has done business in the recent past, why is there no recognition of Congressional intent to reduce ICC salaries and expenses reflected in your request?

ANSWER: The original request did not include any provision for either the Government-wide pay increase of 0.5% enacted in May, 1984, or the 3.5% increase enacted in January, 1985. Both of these pay increases were enacted by Congress. The ICC has no control over the impact of these increases on the agency's expenses.

Had the Congress approved the ICC appropriation at the levels requested in the President's Budget, the government-wide pay raises would have created a funding shortfall to the Commission well in excess of $1 million. Therefore, the comparison of the original President's request without the payraise to the total of the supplemental request and the pay raise supplemental is misleading. The most valid comparison that can be made between these two funding levels is a comparison of the requests exclusive of any consideration of the pay raises. This comparison shows that the requested supplemental level is approximately 3 percent below the original request.

SENATOR ANDREWS: In last year's hearing, it was disclosed that workload figures were not developed by staff but were adjusted by the Commissioners to reflect their sentiment regarding the budget level. Who developed the workload numbers to support the supplemental request? What are they? Is the Commission still using numbers provided last year?

ANSWER: Staff developed the workload numbers to support the supplemental request. The updated FY 1985 workload for each office appears in the FY 1985 column of the workload summaries in the FY 1986 budget.

SENATOR ANDREWS: Has the Commission consulted with the Office of Personnel Management (OPM) on how to conduct "Early-Outs" or Voluntary Retirements? Could OPM be of some assistance in this area? Could OPM alleviate some of the dislocations by placing Commission employees? If not. Why not?

ANSWER: The Commission has consulted with the Office of Personnel Management (OPM) on how to conduct "Early-Outs", has prepared such requests, and received early-out authorization from OPM during two Reductions-in-Force (RIF): Office of Proceedings in June 1984 and Office of the Special Counsel in December 1984. However, after receiving authorizations for early out, only one of more than 15 employees who had expressed an interest in such a retirement actually exercised the option.

The OPM provides assistance to agencies undergoing staff reductions through the Interagency Placement Assistance Program (IPAP). This assistance becomes available to employees only after receipt of specific RIF notices. These notices are issued 30 days prior to involuntary separation. Although this assistance is available, it has not proven a deterrent for dislocations. Perhaps if budgetary constraints and staff ceilings could be used as a basis for IPAP assistance instead of specific RIF notices, agencies would reap greater benefits from the program.

In addition, our Personnel Office is providing outplacement assistance to all employees seeking outside employment. Assistance is provided in the form of counseling on writing resumes and filling out Government applications for employment, referrals to agencies with vacancies, as well as compilation of a biweekly listing of jobs available in other agencies, which is circulated to all employees. We conducted a seminar for employees who were to be "RIF'd", offering professional assistance to them in employment interview techniques in addition to the skills enhancement features mentioned above.

SENATOR ANDREWS: In your budget justification, it is stated that $1 million of potential nonpersonnel cost reductions have been identified. Please explain what these reductions are? Will you be able to achieve them?

ANSWER: The following list identifies 7 areas where the Commission anticipates substantial non-personnel compensation savings as the result of the FY 1985 action plan.

FY 1985 ACTION PLAN
ESTIMATED FULL-YEAR NON-PERSONNEL COMPENSATION SAVINGS

	Estimated Savings
• Travel - Limited to absolutely essential travel only.	$300,000
• Training - No outside training, except upward mobility training in which employees are currently enrolled.	130,000
• Space - major space consolidation effort undertaken.	250,000
• Incentive awards - Eliminate SES bonuses, employee cash awards, and quality within grade increases.	70,000
• Telephone and other communications costs - Eliminate all but essential long-distance calling, eliminate telephones that are not essential.	150,000
• Contracts - Reduce contracted ADP services; remove underutilized equipment; reduce current contract efforts on various studies.	280,000
• Other discretionary expenditures - Reduce supplies, publications, miscellaneous equipment and services.	30,000
TOTAL	$1,210,000

The effort to reduce costs especially in these non-personnel areas to avoid a deficit situation has become a top priority at the expense of workload and operational considerations. The Commission cannot begin to address workload priorities, operational effectiveness, or efficiencies unless the resources requested in the supplemental are approved.

COMMISSIONERS' OFFICES

SENATOR ANDREWS: What have the Commissioners done to live within the existing funding level? Thirty percent of the total supplemental request is for Commissioners and their staffs. Why?

ANSWER: A number of steps have been taken by the Commissioners to live within the existing funding level.

Staff-year savings were achieved through reductions in force in two satellite offices and through attrition. Further savings efforts include a substantial curtailment of travel by the Commissioners and their staffs, the release of space, and self-imposed restrictions on all other areas of discretionary spending.

A total of $4,343,000 is required in FY 1985 to cover personnel costs of $3,250,000 and non-personnel costs of $1,093,000 for Commissioners and their Offices. Since only $3 million is available for these Offices under the Continuing Resolution, an additional $250,000 is required to cover the balance of the personnel compensation and benefits associated with the authorized staff-years. The balance of the supplemental ($1,093,000) will be used for non-personnel costs. These costs include such essentials as office space, telephones, other utilities, supplies, and equipment.

SENATOR ANDREWS: In the original request for Commissioners Offices $58,541 per staff-year was budgeted. The Supplemental request is for $66,815 per staff-year. This is a 14 percent increase. Why?

ANSWER: The average amount of funding requested per staff-year increases for two reasons. First, the average personnel compensation per staff-year used in developing the supplemental request for these offices increased almost 5 percent compared to the amount requested in the President's Budget. Second, most of the non-personnel costs included in the budget are fixed and do not vary significantly with changes in employment. Since these non-personnel costs cannot be reduced at the same rate that staff-years are reduced, these costs are divided by a smaller number of employees, thereby increasing the average cost per staff-year. Although some incremental savings can be made for space and supplies, most significant costs (such as those for printing, copier rentals, office equipment maintenance, and postage) for these offices will not be affected by changes in employment. Some costs, such as those for postage and local or long-distance telephone service, have actually risen due to rate increases.

SENATOR ANDREWS: Faced with a budget reduction, why have these offices not reduced their original per staff-year request but actually increased it?

ANSWER: The problem is not that the Commission has not reduced costs to a reasonable level, rather, it is that working with averages for such small offices is deceptive. The average cost, obtained by dividing the total staff-years into the total costs, is going to continue to increase as the Commission shrinks in size. The salaries of the Commissioners, which are established by law, will always be higher than those of the staff. Therefore, the mathematical average salary per staff-year will increase at any time the Commissioners' staffs are reduced in number.

Similarly, since most non-personnel costs are not variable, the mathematical average non-personnel cost per staff-year will increase when staff-years decrease. The change in average cost per staff-year does not, in any way, reflect upon the efficiency of the Commissioners' offices.

SENATOR ANDREWS: How many square feet of office space is allocated to each of the Commissioners?

ANSWER: The following table lists the total square feet of office space assigned to each Commissioner.

	Square Feet of Office Space
Chairman Taylor	3,255
Vice Chairman Gradison	2,965
Commissioner Sterrett	2,910
Commissioner Andre	3,170
Commissioner Simmons	2,930
Commissioner Lamboley	3,240
Commissioner Strenio	2,950

The Commissioners' offices have internal corridors that add considerable unusable office space. In addition, these offices include a number of necessary file rooms.

SENATOR ANDREWS: Why is over 3,500 square feet of office space necessary for each and every commissioner (including common use space)? This amounts to close to 600 square feet per employee.

ANSWER: The Interstate Commerce Commission Building was designed and built during the Depression, when labor and space were very inexpensive. It was designed to have twelve executive suites, one for each Commissioner (there were a total of 11 at that time) and one for the Secretary. The configuration of this space is inherently inefficient. Each suite has a private corridor connecting the Commissioners' private offices to the smaller offices of senior staff. Most of these smaller offices are not directly accessible from the main corridor, and therefore cannot be released to GSA for rental to other agencies.

Structural changes would be required in order for the configuration of this space to become more efficient. Since the ICC Building is included on the National Register of Historic Buildings, the General Services Administration has generally been opposed to making structural changes in this building.

The common use space referenced in the question is a Commission-wide figure that is pro-rated to each bureau and office in the Commission based on total staff-years. It consists of a total of 42,604 square feet of space for general storage, lab and clinic (the Health Unit), food service, conferences and hearings, and other special purposes.

Although the total space allocated to each Commissioner and staff approximates 3,500 square feet, this includes some non-office space (such as storage space) and a share of common use space (which is used by every employee in the building). The actual office space occupied averages only 3,060 square feet per

Commissioner, and even this amount includes the inside corridors as well as necessary conference areas for meetings and a small reception area outside each Commissioner's office.

The Commission wishes to assure the Subcommittee that no individual Commissioner or staff member occupies an office of 600 square feet.

SENATOR ANDREWS: Have Commissioners turned back space to reduce Commission overhead costs?

ANSWER: Yes, the Chairman and his satellite offices have released a total of 1,910 square feet. The Chairman released 900 square feet. The Office of Public Affairs released 250 square feet, and the Office of Legislation and Governmental Affairs released 760 square feet. The release of this space saved the Commission approximately $34,000 in FY 1985. Due to the way the Commissioners' offices are designed, i.e., with internal corridors, the space cannot be subdivided, with some turned back to GSA. However, the entire Commission (including the Commissioners) has been re-evaluating space utilization.

SENATOR ANDREWS: The GSA standard for square feet per employee is 135: Why are the space requirements of the Commissioners so high?

ANSWER: The GSA target for average space per employee is 135 square feet. However, that level is not intended to apply to Commissioners and other executive level appointees. Commissioners and members of their staffs require space to hold meetings and conferences, as well as a greater amount of filing space than is required by an average employee. Further, the Commissioners' suites at the Interstate Commerce Commission were built into the design and architecture of the building over fifty years ago. The current configuration of the suites is inherently inefficient.

The ICC has, in recent years, asked GSA to make structural changes which would allow more efficient use of this space. However, our requests have been denied largely because this building is on the National Register of Historic Buildings and GSA is generally opposed to making structural changes in such buildings.

SENATOR ANDREWS: The 1985 appropriations report provided 36 slots for Commissioners and their offices. How many staff persons does each Commissioner now have? When did each of the Commissioners get down to the six person per office level? Are any of the Commissioners currently above their allotment? For the record please provide by Commissioner the total staff employed by month (include full and part time).

ANSWER: The number of staff employed in each Commissioner's office is provided in the table below.

Commissioner's Staff On-board Strength by Month

Office of	Oct.	Nov.	Dec.	Jan.	Feb.	March
Commissioner Sterrett						
Full-time	6	6	6	6	6	6
Part-time	0	0	0	0	0	0
Commissioner Andre						
Full-time	4	5	5	5	5	4
Part-time	1	1	1	2	2	1
Vice Chairman Gradison						
Full-time	6	6	6	6	5	5
Part-time	0	0	0	0	0	0
Commissioner Simmons						
Full-time	5	5	5	5	5	5
Part-time	0	0	0	0	0	0
Commissioner Lamboley						
Full-time	6	6	6	6	6	5
Part-time	0	0	0	0	0	0
Commissioner Strenio						
Full-time	3	2	4	5	5	5
Part-time	0	0	0	0	1	1

SENATOR ANDREWS: In addition to the full-time staff, do the Commissioners use part-time staff? Which Commissioners? If part-time staff is included, did any of the Commissioners exceed the six person staff level from October to now? Who? Why?

ANSWER: In the Conference Report accompanying the Continuing Resolution, the conferees directed that 36 staff-years be distributed to the other Commissioners' offices. The Government staff-year system allows managers to use a mix of full-time, part-time, temporary, and intermittent employees, as deemed appropriate by management. There was no prohibition of this practice in the Conference Report. Thus, Commissioners may choose to expend staff-years on employees who are full-time or part-time. Commissioners Andre and Strenio have used part-time employees during FY 1985. These part-time employees are charged against the same staff-year ceiling (a total of 36 staff-years) as full-time employees. Although some of the Commissioners have had more than six persons on board at various points in time during the year, the six Commissioners as a group will not exceed the total staff-year allocation of 36 for fiscal year 1985.

SENATOR ANDREWS: If the allowable level were exceeded, how is this overspending going to be corrected?

ANSWER: If supplemental funds are not made available to the Commission for FY 1985, the funding shortfall will be corrected by furloughing all Commission employees for up to 26 days or 20 percent of their work schedules beginning the week of April 14, 1985.

SENATOR ANDREWS: How many staff-years for the Commissioners and their offices would be supported at the Continuing Resolution level of $48 million?

ANSWER: The $3,000,000 funding level made available for Commissioners and their Offices under the Continuing Resolution could support up to 60 staff-years if applied only to personnel compensation and benefits. However, funding for non-personnel support (such as rent, telephones, supplies) is essential in order for the Offices to function. If all non-personnel support costs were funded first, the $3 million would support a level of only 38 staff-years.

SENATOR ANDREWS: How much of the $1.3 million requested for Commissioners will be used for part-time personnel?

ANSWER: None of the $1.3 million in supplemental funds for Commissioners was requested to specifically cover the personnel costs of part-time personnel.

SENATOR ANDREWS: Is this supplemental request fully supported by all the Commissioners?

ANSWER: Yes, all of the Commissioners are in support of this supplemental request. On October 25, 1984, in open conference, the Commission voted unanimously to approve the supplemental request for FY 1985.

SENATOR ANDREWS: How much of this year's funding will be spent on fixing up Commissioners' offices? (carpet, furniture, drapes, etc.)

ANSWER: No funds have been or will be spent on carpets, furniture, or drapes in the Commissioners' offices in fiscal year 1985. Additionally, the only expenditure of funds for Commissioners' offices in FY 1985 has been $443 for equipment in Commissioner Simmons' office, which was actually ordered in FY 1984. No other expenditures for equipment are anticipated in fiscal year 1985.

SENATOR ANDREWS: How much does it cost to maintain each Commissioner's office at the six-person level? How much of that cost is personnel?

ANSWER: It costs an average of $407,000 to maintain each Commissioner's office at the six-person level. Of this amount, an average of approximately $301,000 is required to cover personnel compensation and benefit costs. The current average cost per Commissioner has been reduced 25 percent from the average cost we discussed before this Subcommittee last year.

SENATOR ANDREWS: How does the cost of maintaining an Interstate Commerce Commission (ICC) Commissioner compare to the costs of other regulatory bodies like the Federal Maritime Commission?

ANSWER: We do not have current information regarding the cost of maintaining Commissioners' offices at other regulatory bodies. However, the Federal Staff Directory shows average staff in the Federal Communications Commissioners' offices of three technical advisors and one secretary. At the Federal Energy Regulatory Commission, Commissioners have either two or three legal advisors and one secretary. A recent organization chart for the Federal Trade Commission shows four professional, two secretarial, and one administrative position in the Commissioners' offices.

We gathered such information previously and found that the workload and staff responsibilities at the ICC are much greater than at other regulatory agencies. The ICC is responsible for regulating many more entities, and ICC Commissioners are responsible for voting on significantly more individual cases during the year than were the other regulatory bodies surveyed. Given this substantially greater workload, ICC Commissioners' staff levels are not at all out of line.

SENATOR ANDREWS: Has the Commission instituted any cost/benefit or other management studies to examine whether the activities it performs are essential? That is, activities necessary by statute or which provide an identifiable benefit to industry or the consumer.

ANSWER: The Commission performs cost/benefit analyses on major issues as an adjunct to its rulemaking process. In addition, management and program reviews are an integral part of the Commission's overall budget process which relates present and projected workload to the number of staff-years needed to meet it. Currently, an organizational study is being undertaken by the Managing Director in order to develop the most effective and efficient agency structure following the staff reductions that have occurred in most offices over the last 5 years because of legislative changes and budget cuts. The Commission, however, no longer has the staff or the resources necessary to undertake extensive management analysis and cost/benefit studies.

SENATOR ANDREWS: If the Commission had spent its funds throughout FY 1985 at a rate commensurate with the appropriated level of $48 million, how many people would have had to have been furloughed?

ANSWER: The Commission is spending its funds in a manner which is consistent with the appropriated $48 million funding level and which will not violate the Anti-deficiency Act. If the Commission had been able to distribute spending evenly throughout FY 1985, everyone at the agency would still have had to be furloughed. The number of days of furlough per employee might have been reduced slightly because the on-board strength was higher at the beginning of the year and, thus, each furlough day then would have saved a bit more money but essentially the same approximate total amount of furloughing would have been necessary.

SENATOR ANDREWS: If the Commission had been provided the full amount originally requested for fiscal year 1985, would you have had to request a supplemental for this year? How much? For what reason?

ANSWER: If approved, the original request would have provided sufficient funding so that a supplemental probably would not have been necessary. If any additional funding had been required, it would have been only to cover the cost of the 1985 pay raise. Although the agency's costs for personnel compensation would have exceeded the amounts originally estimated, any shortfall would have been covered by reprogramming the savings achieved in the non-personnel expense categories.

SENATOR ANDREWS: How many positions, full and part-time, did the Commission carry in October, November, December, January, and February?

ANSWER: The numbers of full-time and part-time positions occupied (not staff-years) at the beginning of each month are as follows:

	Full-time	Part-time
October	1,023	48
November	1,009	51
December	993	50
January	956	51
February	926	49
March	910	52

SENATOR ANDREWS: By carrying these additional personnel (above the 914 level), how much additional cost did the Commission incur?

ANSWER: Actual personnel compensation costs for all ICC employees from October 1, 1984, to March 31, 1985, are $20,171,000. Of this amount, $19,773,000 was incurred for full-time permanent personnel. Based on the estimated average cost per full-time employee for FY 1985, the costs for 914 employees would have been $17,777,000; this is a difference of $1,996,000 compared to the actual compensation for full-time permanent employees during the period.

SENATOR ANDREWS: If the supplemental were granted, how many personnel full and part-time would be provided for? If no part-time staff were employed for the year, what funding level would be necessary?

ANSWER: If the supplemental were granted, funding would be provided for 984 total staff-years, of which 35 are other than full-time permanent staff-years. These "other" staff-years consisted of 45 employees as of March 30; 39 of these are permanent employees who work part-time, and the balance are on temporary or intermittent appointments.

If no part-time or temporary staff were employed for the year, a funding level of approximately $51.8 million would be required. Although the annualized salary and benefit cost for other than full-time permanent staffing is approximately $800,000, RIFs of these employees would have cost about $140,000. This is because over 90% of these employees are permanent staff, entitled to the same Civil Service protections and benefits as other permanent employees working full-time.

Further, it would have been impractical and in many cases counterproductive to eliminate all of the part-time employees. The Commission has made judicious use of its allocations for other than full-time permanent staffing by utilizing this employment option to carry out essential tasks which can be accomplished effectively and efficiently on a less than forty-hour-a-week basis.

Many of the part-time permanent employees occupy professional positions and are valued as highly skilled, experienced staff. Among the job titles represented are Attorney-Advisor, Staff Advisor, Paralegal Specialist, Trial Attorney, Budget Analyst, Contract Specialist, and Operating Accountant. An illustration is the case of the Budget and Fiscal Office's Operating Accountant, who is the only employee carrying out that particular function in the agency. Elimination of part-time employees such as this would simply increase the agency's requirements for full-time permanent staff without any concomitant increase in efficiency or productivity.

The non-professional part-time employees are also engaged in carrying out critical functions. For instance, if there were no part-time employees in the field, many of our field offices would have no clerical support. This would mean that Special Agents would have to spend valuable time performing typing, copying, and filing functions. As another example, all of the mail clerks and mail processing equipment operators employed in the Commission's central mail room are part-time employees. Elimination of part time employment would not eliminate the need to carry out these mail functions; it would simply force the Commission to use full-time staff to carry out functions which our experience shows can be more efficiently and effectively carried out by part-timers.

In view of these circumstances, the Commission believes that the use of part-time employees provides a highly desirable, cost effective means for accomplishing essential tasks.

SENATOR ANDREWS: What is the "normal" attrition for the Commission? Because ICC carried so many additional personnel at the beginning of the year (1,068 staff versus the 914 provided), wouldn't the Commission have had to implement a reduction-in-force (RIF) or furlough this fiscal year even under the original Administration request?

ANSWER: The attrition rate of the Commission has varied significantly during recent years. The attrition rates rise significantly during periods immediately surrounding RIF's and vary by office. Since the agency has undergone a total hiring freeze and has experienced several RIFs during the past four years, there is no "normal" period which can be identified in order to determine what the "normal" attrition might be. For the purpose of developing estimates, we have assumed an average rate of one percent, per month, an annualized rate of just below 12 percent, which is an average rate occurring during non-RIF periods during the past 3 years. We believe this rate will prove to be a realistic estimate for this fiscal year.

The Commission would have needed to achieve only about a 4 percent attrition rate in order to stay within the 1,022 total staff-years requested in the President's Budget. Since, even without threat of RIF's, this rate of attrition should have been easily attained, it is very unlikely that a RIF would have been necessary in order to stay within the total staff-year levels requested for the Commission as a whole. However, it is possible that limited RIF's might have been required in the Bureau of Accounts and Office of Compliance and Consumer Assistance in order to keep these Offices within their staff-year ceilings.

SENATOR ANDREWS: How many persons have been RIFed this fiscal year? Does the Commission have plans to RIF any more employees this year?

ANSWER: During January and February 1985, the Commission separated 38 employees through RIF actions, but there are no plans to RIF additional employees during FY 1985, because the high cost of terminal leave and severance pay associated with reductions-in-force eliminates almost all of the personnel compensation savings.

OFFICE OF THE SECRETARY

SENATOR ANDREWS: For the Office of the Secretary in the original request for fiscal year 1985, approximately $39,635 per staff-year was requested. The supplemental request per staff-year is 7.5 percent higher. Why?

ANSWER: In the original President's Budget Request for FY 1985, the average personnel compensation cost per staff-year for the Office of the Secretary was estimated at approximately $20,200. However, as a result of attrition and RIFs conducted in this Office during FY 1984, the lowest graded and lowest paid employees left, thereby contributing to an increase of over 10 percent in the average compensation cost to over $22,400 per staff-year. This increase in personnel compensation cost is partially offset by reductions in non-compensation expenses, resulting in a smaller overall increase in the average cost per staff-year.

SENATOR ANDREWS: The Senate Report accompanying the 1985 funding stated that organizational changes with the lower funding level were expected and said the Commission should "fully and effectively utilize review boards." The Commission is doing exactly the opposite by eliminating three boards in Proceedings. Why?

ANSWER: A majority of the Commission voted to improve the decisionmaking process by abolishing the full-time 6-member review board in the Office of Proceedings, deciding protested cases at the Division level, and establishing a 3-member employee board in the office to perform the prepublication review of motor carrier licensing applications. The Commission approved a panel of some 14 attorneys in the office, each of whom will serve on the newly created board for a 90-day period in rotation and in conjunction with their full-time duties in the office.

Under the present structure, the Divisions have a direct hand in the more important decisions, while the new board handles the more routine ministerial motor carrier matters. Eliminating this decisionmaking level not only reduces case processing costs overall but also reduces appellate workload.

SENATOR ANDREWS: Three employee review boards were eliminated in the Office of Proceedings thus making a greater number of cases the purview of Commission Divisions. Why were these review boards eliminated? Did it save any money?

ANSWER: Actually, only one review board was abolished. (The Chairman had previously consolidated the three review boards into a single board staffed by a chairman and 5 senior attorneys on a full-time basis.) The change to a 3-attorney board was made to improve and streamline the decisionmaking process, and we believe this has been accomplished.

One GS-16, 5 GS-15, and 4 GS-6 positions were eliminated and, when the effects of the RIF are considered, annualized personnel cost savings of approximately $267,000 were realized. There have also been considerable but unquantified administrative savings.

SENATOR ANDREWS: The elimination of the employee review board means additional resources are required by the Office of the Secretary. How much additional funding is necessary because of the increased workload?

ANSWER: The impact falls upon the staff of 3 in the clearance unit of this office. The unit collects the votes and arranges for disposition of all cases coming before the full Commission and its divisions. From October 1, 1983, through July 31, 1984, before the full-time review board was abolished, the 3-person unit cleared an average of 183 cases per month. Since August 1984, when the review board was abolished, the workload of the unit has increased approximately 10 percent. In addition, the unit has been faced with processing the increase in the volume of votes cast by three new Commissioners. Therefore, the unit requires an additional 60 staff-hours per month to handle the caseload. The cost of this required additional staff time will range from $9,000 to $12,000, depending upon whether a temporary employee or overtime can be used to supplement the existing staff.

SENATOR ANDREWS: The Commission virtually withdrew all contested cases from the jurisdiction of employee boards during 1984. Why? Was it because these review boards were staffed by non-political employees?

ANSWER: In FY 1983 the three Proceeding employee review boards were consolidated into one board. A majority of the Commission voted on July 11, 1984, to eliminate the Review Board. The Board's ministerial motor carrier functions were delegated to a new employee Motor Carrier Board consisting of three GS-14 attorneys. Existing GS-14 attorneys in the Motor Section are assigned to the Board on a rotating, part-time basis. Cases involving substantive policy issues were transferred to the Commissioners' offices. The Review Board was eliminated and its docket was redistributed, due to a substantial decline in the number of significant opposed cases handled by the Review Board.

SENATOR ANDREWS: You are requesting eight additional personnel in the Office of the Secretary. Why?

ANSWER: The addition of eight staff years are necessary so that the Office of the Secretary can keep up with the workload related to its various functions. Since virtually all of its activities relate to statutory requirements, none can be eliminated.

This Office has experienced a significant increase in workload as a result of the recent revisions of the Commission's User Fee schedule, which was mandated by Congress. This revision added 23 new fee items to the schedule bringing the total to 72. These revisions and an unanticipated volume of motor carrier applications have caused delays in forwarding applications to the Office of Proceedings. If additional staff resources are not allocated to the fee processing activity and the application review activity in FY 1985, there will be more than a month's delay in processing fees and applications in the near future. It will take significantly more time for the Commission to act upon such applications. The resulting increase in regulatory delay will adversely affect the public. This additional time will cause missed statutory deadlines in protested motor carrier application proceedings and rail abandonments. In addition, there will be a significant delay in depositing fees with the U.S. Treasury.

One particular new fee item (the tariff filing fee) requires a separate staff allocation because of the volume of tariffs filed with the Commission. Over 18,000 billable tariff series are received each month. A monthly billing account system involving 950 accounts, as of March 1, 1985, has been developed to handle that workload. However, it is estimated that the billing cycle will be delayed by three months by the end of FY 1985 if additional staff is not assigned to this part of the work program.

Another area that requires additional staff resources is the Microfilm Unit, which maintains the public docket. If additional staff is not allocated to that activity, public record material will not be readily available for several weeks after the documents are filed. Such delays destroy the integrity of the public docket and interfere with public participation in Commission proceedings.

Additional staff is also required in the Certification Unit, which copies and certifies documents for the public. If additional staff is not available to handle public requests in this area in FY 1985, it will take two months for the public to get documents and cetifications from the Commission. Such delays will be unacceptable to the public, which needs such material for court proceedings.

Another critical area is the Insurance Unit, which posts proof of insurance filings and cancellations. The workload of this unit has increased in FY 1985 due to increased insurance liability limits required by the Department of Transportation and the new Commission policy which allows carriers to obtain insurance from more than one insurance company. If additional staff resources are not available for the Insurance program, there will be additional delays in issuing authorities to new carriers; delays in issuing notices of violations; and an increased chance of uninsured motor carriers operating for a longer time.

It is not possible to detail additional staff from other areas of the Secretary's Office to perform these functions. Any further detailing would simply cause delays in other critical areas such as incoming mail handling and clearing and serving decisions. Delays in those areas would adversely affect the public who would have to wait longer to receive notification of the Commission's actions. Delays in these areas could also cause missed statutory deadlines in rail abandonment proceedings and other significant rail cases. In 1984 the Commission had to extend statutory deadlines in 20 proceedings. As of March 10, 1985, the Commission has already extended deadlines in 13 proceedings. If staff were detailed from mail handling, decision clearing and service operations, it is anticipated that there would be a continued increase in extended or missed statutory deadlines in significant rail proceedings.

SENATOR ANDREWS: How much of the request for $769,000 for eight additional personnel is directly personnel costs. How much is non-personnel and why is it necessary?

ANSWER: Personnel costs account for $659,000 of the additional $769,000 requested for the Office of the Secretary. The remaining $110,000 is for non-personnel related costs.

The non-personnel increases are needed in order to cover the costs of rent, communications, and time-sharing services. The remaining increases are in furniture and equipment costs and leasehold improvement costs, which must be incurred in order to reduce our space and related rental costs. These increases in non-personnel costs are required primarily to fully support the staff-years authorized in the Conference Report.

OFFICE OF GENERAL COUNSEL

SENATOR ANDREWS: The original 1985 request for the General Counsel averaged out to $60,774 per staff year. The supplemental request averages out to $67,179 per staff-year--an 11 percent increase. Why?

ANSWER: The average cost per staff-year has increased because attrition of lower graded employees caused the average personnel compensation per staff-year to increase. Non-personnel costs did not vary with this small decrease in employment and, therefore, the average non-personnel cost per staff-year also increased.

SENATOR ANDREWS: In appealing the Conference Report levels, it is stated that under the reduction, the Commission would have to look to other sources such as the Justice Department for assistance. Is this bad? Why?

ANSWER: A basic principle of our legal system is that a litigant is entitled to his own choice of counsel who owes the litigant complete dedication to advancing the litigant's interests. In judicial reviews of Commission decisions, other parties, including the Justice Department, although on the same side with the Commission, frequently have differences of interests or emphasis with the Commission. Indeed, the Justice Department on various occasions, although a statutory respondent with the Commission in all cases of review, has taken either a neutral position on the entire case or some element of it, or actually supported the other side. In the same vein, private litigants may be arrayed with the Commission in some cases and against the Commission in others and frequently have different views from the Commission in the same case. In these circumstances, the Commission cannot assure itself of adequate representation except through its own counsel.

SENATOR ANDREWS: How much does the Commission presently rely on outside sources to defend its position in court cases?

ANSWER: The Commission does not rely on outside sources to defend itself, with the exception of two narrow areas. First, where exigencies of time and cost savings dictate (such as in a request for temporary stay pending judicial review in a distant court), the Commission may rely on a local United States Attorney or counsel for a party on the Commission's side to appear at a quickly set hearing. Second, appeals to the Supreme Court from decisions of courts of appeals are generally handled by the Solicitor General of the United States, with Commission attorneys merely providing whatever support and assistance he may require.

SENATOR ANDREWS: How much of the General Counsel's or Commission's resources are being expended in appealing court of appeals decisions to higher courts? Why did the Commission feel it was necessary to make these appeals?

ANSWER: As noted in the answer to the previous questions, appeals to the Supreme Court are generally handled by the Solicitor General, with the rare exceptions (1) of a disagreement with the Department of Justice which requires the Commission itself to handle the appeal or (2) of the inability of the Solicitor General's office to arrive at a government wide position prior to the time for the filing of a petition for writ of certiorari having run, which requires the Commission itself to initially file a petition for writ of certiorari in its own name. This latter process was followed in the boxcar and export coal exemption cases. Upon the Solicitor General's later filing in support of the Commission's position, that office assumed the control of the litigation it would normally exercise.

The Commission is currently appealing through the Solicitor General, the following cases:

No. 84-550, ICC v. Brae Corporation, et al. (Boxcar)

No. 84-884, ICC v. Coal Exporters Ass'n, et al. (Export Coal)

No. 84-1515, ICC v. Tri-State Motor Transit Co., et al. (involving an administrative law question concerning persons rights to repetitive review of the validity of previously judicially approved Commission rules)

In addition the Commission has voted to appeal, and the Solicitor General's Office is considering whether to file on behalf of the Commission, a petition for writ of certiorari in State of Texas v. United States, 730 F. 2d 409 (5th Cir. 1984), amended on rehearing, 749 F.2d 1144 (5th Cir. 1985), which involves the same issue as Tri-State.

Since these appeals are being handled by the Solicitor General, our resource expenditures for drafting and consultations assistance to his office have been, and will continue to be, minimal compared with the General Counsel's Office budget. Although it is hard to both reconstruct the General Counsel's past expenditures and predict future ones, it is estimated that past expenditures on the two major appeals, Boxcars and Export Coal, which include analysis leading up to the decisions to appeal, were approximately $9,500 for Boxcars and $3,000 for Export Coal. If the Supreme Court takes these two appeals, which the Solicitor General seeks to have combined by the Court, it is estimated that the General Counsel's future assistance to the Solicitor General will not exceed $3,000 in resource expenditures.

The reasons for appeal that the Commission and Solicitor General have agreed upon are as follows for each case.*

In both Brae and Coal Exporters: Whether the court of appeals impermissibly ignored the Commission's or substituted its own predictive economic judgment for that of the Commission in holding the Commission's grants of exemption invalid; and, whether the court of appeals impermissibly imposed non-statutory required burdens upon the Commission's exercise of its exemption authority which severely limit, if not destroy, the usefulness of that authority.

In Brae: Whether the court of appeals erred in concluding that the partial exemption from car service regulation provided therein was really regulation and hence was outside of the Commission 's exemption authority.

In Coal Exporters: Whether the court of appeals erred by ignoring the Commission's revocation authority as a means of protecting the public interest should the Commission's predictive judgments concerning the lack of market power by railroads transporting coal for export prove to be inaccurate.

In Tri-State and Texas, if filed: Whether the Hobbs Act bars relitigation of the validity of the Commission rule after the rule has been upheld by another court of appeals and the statutory 60-day period for seeking judicial review has long expired.

The majority of agency resources devoted to litigation before the Supreme Court is spent resisting petitions for certiorari by litigants who have been unsuccessful in overturning the Commission's rules or orders in the courts of appeals. Here, as in connection with petitions for certiorari by the agency, the Solicitor General's Office has primary responsibility for the conduct of the litigation, with the Commission General Counsel's Office preparing the initial draft of the memo in opposition to the granting of certiorari and providing such further assistance as the Solicitor General desires. By contrast to the three, perhaps four, requests for certiorari by the Solicitor General on behalf of the Commission this year (which is itself a high figure--a more normal one being about two per year) the Solicitor General with the assistance of the Commission has opposed the granting of petitions for certiorari in six cases since the commencement of this term of the Supreme Court in October 1984.

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* Chairman Taylor voted not to appeal the Brae decision; Commissioners Simmons, Lamboley, and Strenio were not serving on the Commission at the time of that vote. Chairman Taylor and Commissioners Simmons and Lamboley also voted not to appeal the Coal Exporters decision.

SENATOR ANDREWS: What cases is the General Counsel's Office involved in now?

ANSWER: As of April 1, 1985, the General Counsel's Office is currently handling 301 active court cases. Of these, 123 are motor carrier cases and 170 are rail cases. The remaining 8 cases are of a miscellaneous nature involving personnel matters and contracts.

The motor carrier cases include 90 reviews of operating rights decisions (predominantly in the areas of contract authority for household goods carriers and bulk authority for general freight carriers), 13 cases involving rate matters and 20 bus cases (rates, entry and exit) under the new Bus Act. The rail cases include 68 involving rate matters, 27 involving abandonments, 38 involving various finance and service matters (mergers, labor protection, new construction, bankruptcy, reciprocal switching) and 37 involving various exemptions, federal-state relationships and other matters.

SENATOR ANDREWS: What caseload projections for fiscal year 1985 is the supplemental based on? (workload, significant cases)

ANSWER: In the first six months of fiscal year 1985, the General Counsel's Office received 92 new court case filings, for an average of a little over 15 per month. After a large drop in new filings in January (only four cases, which depressed the monthly average), new filings returned to more normal levels, with 19 in February and 23 in March. Therefore, we estimate an average somewhere in the range of 18 to 20 cases per month for the rest of fiscal year 1985. That level of new filings should maintain the General Counsel's Office docket at around its present level of 300 pending cases throughout the year.

It is difficult, if not impossible, to predict what will be the significant cases for the rest of the year in addition to Export Coal and Boxcars. The Commission in the near future, should issue a decision in Ex Parte 347 (Sub-No. 1), Coal Rate Guidelines--Nationwide, and it is predicted to be reviewed. However, who will challenge it and on what grounds of significance cannot now be foreseen. Similarly, other significant Commission proceedings such as Ex Parte 445 (Sub-No. 1), Intramodal Rail Competition, should be decided and will most likely undergo court review. But, again, the degree of significance of the review cannot now be predicted.

Among the pending cases, all 20 of the current Bus Act cases are potentially very significant, since from them will come the basic judicial interpretations of this new legislation. Further, the pending cases involving actions of the Texas State Commission and its failure to achieve certification will determine significant issues as to the Federal-State relationships under the Staggers Act. Also, pending cases involving the CSX purchase of American Commercial Barge Lines and railroad entry into motor carrier service will decide significant issues as to the ability of carriers to become multi-modal. Finally, it should be noted that history establishes that many cases which initially appear to be minor or routine develop into major, significant cases because of the unpredictable novel issues ultimately raised by petitioners and decided by the courts.

One other point needs to be mentioned. The supplemental request does not rest alone on court case projections. The General Counsel's Office also provides formal and informal legal advice to the Commission and its staff on a regular basis. In the first six months of fiscal year 1985, the General Counsel's office issued 171 formal memoranda and gave informal oral and written advice on numerous occasions. This significant advisory workload is projected to continue undiminished for the rest of the year.

SENATOR ANDREWS: For the record provide a workload description for this office.

ANSWER: As previously stated, the General Counsel's office has a continuing workload of some 300 court cases, which at the present rate of new filings is predicted to continue throughout the fiscal year. To this litigation workload must be added the large amount of formal and informal legal advisory service required by the Commission. This heavy workload burden is being carried by only 14 full-time attorneys, two part-time attorneys, four supervisory attorneys and nine support personnel--a total of 28.6 full-time equivalents or staff-years. That number is a reduction of three full-time personnel (by RIF and voluntary separation) since the first of the fiscal year (a 10 percent staff reduction). The supplemental request is based on our determination that the present staffing level is the minimum that must be maintained to adequately service the heavy litigation and legal advisory needs of the Commission.

OFFICE OF TRANSPORTATION ANALYSIS (OTA)

SENATOR ANDREWS: The original request per staff-year for this office was slightly lower than the supplemental request per staff-year. The Commission not only was not able to reduce costs in this office but actually saw them increase. Why?

ANSWER: Overall, the average funding requested per staff-year in the Office of Transportation Analysis increased less than 2 percent. As in most offices in the Commission, attrition in this office occurred primarily among lower-graded employees, thus causing the average personnel compensation cost per staff-year to increase by approximately 7 percent. This increase was largely offset by decreases in non-personnel expenses.

SENATOR ANDREWS: How much time of this Office is being spent on the post-abandonment study?

ANSWER: The Office of Transportation Analysis has not conducted any post-abandonment studies, therefore, no time has been devoted by that Office to such activity. However, the Office of Compliance and Consumer Assistance (OCCA) did conduct an informational survey, collecting information, through interviews of shippers, governmental officials, and other businesses concerning the impact of 16 contested abandonments of 50 miles or less, which were filed after the Staggers Act and which were consummated between mid-1981 and mid-1983. Since none of the aspects of the survey were selected randomly, the survey cannot be termed a "study" as that term is properly used, and the conclusions cannot be considered as representative of all abandonments. The survey is primarily useful in determining additional factors to be considered in connection with future abandonments; however, no additional resources are specifically committed to this activity. The availability of sufficient funds will govern the scheduling of future surveys.

OCCA devoted 504 staff-hours to conducting the survey and an additional 48 hours to analyze and summarize the reports of interviews, for a total of 552 staff hours. This is about one quarter of a staff-year.

SENATOR ANDREWS: What percent of this Office's workload is spent on statutorily-required studies?

ANSWER: For projects completed in and/or anticipated for the remainder of FY 1985, we estimate 11.9 staff-years will be expended on statutorily-required studies. This represents 34 percent of the resource level requested in the supplemental. We believe this will increase in FY 1986 to approximately 36.4 percent based on an anticipated increase in rail merger activity.

SENATOR ANDREWS: What are those studies? What resources will be expended on those statutorily-required studies? Please list by case or study the workload and factors for each.

ANSWER: The studies and resources are listed below.

Study	FY 1985 Staff Years	Contracting Funds	Travel Funds
1. Northwestern Pacific Abandonment Environmental Impact Statement	.45	$ 5,000	
2. Denver & Rio Grande Western Abandonment Environmental Assessment	.35		
3. Ex Parte 347 (Sub-No. 1) Environmental Impact Statement	.35		
4. Florida West Coast Construction Environmental Assessment	.35		
5. Chicago & North Western Construction Environmental Assessment	.45		$1,000
6. International Center for Aerospace Sciences and Technology & Western Environmental Assessment	.45	$15,000	$1,717
7. Tongue River Construction Environmental Impact Statement	.75		$3,133
8. Santa Fe/Southern Pacific Merger Environmental Assessment	.55	$ 5,000	
9. Western Pacific/Union Pacific Construction Environmental Assessment	.45	$ 5,000	$1,000

Study	FY 1985 Staff Years	Contracting Funds	Travel Funds
10. Three Anticipated Major Projects	2.0	$15,000	$3,000
11. 378 Miscellaneous Environmental Evaluations	2.0		
12. Food & Grocery Study Required by Sec. 8 of the Motor Carrier Act	.25	$10,000	
13. F.D. No. 28640 (Sub-No. 9) Purchase of the Milwaukee Road	.08		
14. F.D. No. 30000, Union Pacific-Control-Missouri Pacific; Western Pacific (Court Remand on Conditions)	.04		
15. F.D. No. 30400, Santa Fe Southern Pacific Corp.-Control-Southern Pacific Transportation Co.; Merger - The Atchison, Topeka & Santa Fe. Ry. Co. and Southern Pacific Transportation Co.	1.6		
16. F.D. 30500--Norfolk Southern Corporation - Control North American Van Lines	.7		
17. Report on Abandonment & System Diagram Mileage for Use in State Assistance Programs	.08		
18. Annual Report to Congress on Joint Rate Surcharges & Cancellations	1.0		
TOTAL	11.9	$55,000	$9,850

For FY 1986, we anticipate statutorily-required activities to consume more resources than in FY 1985 due to the anticipated increase in rail merger applications. We believe the eventual sale of Conrail, plus the trend toward rail ownership of barge and truck lines will result in significantly greater merger activity in FY 1986. Therefore, we project a total of 13.1 staff-years, $60,000 in contracts and $10,000 for travel related to statutorily-required activities.

SENATOR ANDREWS: In the supplemental request, it was stated that this office needed the supplemental to continue to assist and advise the public on alternatives relating to rail abandonments, subsidies and short line operations. Isn't this the function of the Office of Special Counsel and the Financial Strike Force Team of the Federal Railroad Administration (FRA)? Is there overlap between the two offices? With FRA?

ANSWER: OTA's public assistance function is a holdover from the 1979 consolidation of the Rail Services Planning Office (RSPO) into the predecessor unit of the Office of Transportation Analysis (OTA). The office's public assistance efforts stem from its statutorily mandated functions to provide technical and planning assistance to State and local governments and the public in the implementation of subsidy and rail planning programs. RSPO began its public assistance role in 1974 with the formation of Conrail and the establishment of many new shortlines and subsidized operations in the East. Of the 7,000 miles of line excluded from Conrail, some 2,500 miles were operated under subsidy by States and communities. RSPO's advice and assistance was also sought between 1979 and 1983 because of the cessation of service on the Rock Island and significant portions of the Milwaukee Railroad and the subsequent need for the establishment of new short lines and acquisitions by other railroads to continue service.

Presently, the office's public assistance is in the form of general advice and technical assistance to all parties, whereas Special Counsel's role is to assist particular interests in proceedings pending before the Commission. OTA's role is non-partisan as it does not represent specific interests in cases pending before the Commission.

Over the years, the office has provided information, advice, and assistance to the general public on abandonments, subsidies, transportation alternatives and short lines in the form of public meetings, formal interpretations on subsidy disputes, and informative brochures and pamphlets. The office has distributed thousands of brief summaries of the revised abandonment process under the Staggers Act and also Conrail's special abandonment provisions. Additionally, the office issued the Guidelines for Evaluating the Feasibility of Short Line Operations, which proved to be extremely popular, with approximately 5,000 copies requested by the public. Also, each year the office provides the Federal Railway Administration (FRA) with potential abandonment mileage by State for use in FRA's allocation of funds under its State Assistance Program.

With regard to the FRA's Financial Strike Force Team and its functions, it is our understanding that the Strike Force coordinates activities where railroads desire to consolidate operations through abandonments, trackage rights, and acquisitions. This specialized activity takes place under Section 401 of the 4-R Act and provides for anti-trust protection for the railroad negotiations. The Strike Force also assists groups interested in developing shortlines; however, this activity usually involves groups that are seeking Federal funding assistance.

We do not believe there is any significant overlapping between OTA, Special Counsel, and FRA because of the specialized orientation of each office.

SENATOR ANDREWS: What does the Small Business Assistance Office do in this area?

ANSWER: Traditionally a primary activity of the Small Business Assistance Office (SBAO) has been the counseling of small and new motor freight and passenger carrier entrants in obtaining authority and complying with Commission regulations. However, with the receding level of public assistance functions performed by other ICC offices, combined with the changing regulatory environment, SBAO has been increasingly sought out by persons interested in starting or expanding a line of railroad. In response to these inquiries, SBAO recently prepared and published a booklet on ICC procedures for acquiring approval to operate a railroad. The publication, So You Want to Start a Small Railroad, provides step-by-step instructions covering the different application and exemption proceedings most commonly filed by new or small railroad operators. An explanation of requirements relevant to each kind of filing is included. It represents the first ICC publication on railroad entry requirements, and has been well received by the rail industry, the State regulatory bodies and the shipping public.

In addition to issuance of this handout, SBAO confers with other Federal, State and local agencies involved in rail transportation issues to discuss problems and unique situations and to continually apprise them of changes in Commission rules and procedures.

SENATOR ANDREWS: What specifically would the six additional personnel be involved in? What cases, what studies, what percent of their time?

ANSWER: Restoration of six (6) staff-years to the Office of Transportation Analysis (OTA) would permit the continuation of the following activities:

1. Substantive economic analysis for major rail rulemakings.
2. Substantive economic analysis of merger applications.
3. Rail monitoring activity, particularly with respect to exemptions.
4. Minority and Female Owned Motor Carrier reports.
5. Bus and Household Goods Carriers Act monitoring.
6. Limited public assistance.

The six staff-years would be entirely devoted to the above activities.

SENATOR ANDREWS: Provide a breakdown of the additional $525,000 requested (personnel vs. non-personnel) and a breakdown of the $250,000 requested to support additional staff.

ANSWER: Of the $525,000 requested for the Office of Transportation Analysis, $439,000 is for personnel compensation and benefits costs and $78,000 is for non-personnel services. Of this amount, $70,000 is associated with contract funds needed for the statutorily required Food and Grocery Transportation Study, the monitoring of rail services exemptions, and bus industry studies. The balance is attributable to costs for supplies and materials, furniture and equipment, and leasehold improvement which must be incurred in order to reduce our space and related rental costs.

The six staff-years will cost $250,000 for salaries and benefits and will permit the continuation of the following activities with existing personnel:

1. Substantive economic analysis for major rail rulemakings.
2. Substantive economic analysis of merger applications.
3. Rail monitoring activity, particularly with respect to exemptions.
4. Minority and Female Owned Motor Carrier reports.
5. Bus and Household Goods Act monitoring.
6. Limited public assistance.

These activities provide the Commission with information necessary for sound decisionmaking and for assessing the effects of regulatory changes on shippers and carriers.

SENATOR ANDREWS: The Commission appears to be dismantling the motor carrier reporting requirements (Docket 38904), yet the request for additional resources in OTA cites the need to continue to monitor motor carrier activities. These actions seem contradictory. Please explain.

ANSWER: Proposed reductions in reporting requirements (Docket 38904) would, if adopted, have minimal impact on OTA monitoring activities. This proposal deals with financial and operating data collected by the Bureau of Accounts and would reduce detailed annual and quarterly reporting requirements, but essential financial and operating statistics would still be reported. The Bureau of Accounts quarterly report, "Large Class I Motor Carriers of Property Selected Earnings Data," would continue to be published.

In addition, OTA monitoring activities rely very little on data from the Bureau of Accounts. We do use Commission data on new applications and grants of authority but rely primarily on information obtained from the news and trade media, in addition to discussions with representatives of carriers, shippers, associations, consultants, security brokers, Dun and Bradstreet, organized labor, academia, and other Government agencies.

BUREAU OF ACCOUNTS

SENATOR ANDREWS: Why did the Commission under Docket 38904 propose to eliminate the Uniform System of Accounts and to revise the reporting requirements for Class I and Class II common and contract motor carriers?

ANSWER: The Commission's answers regarding Docket 38904 are based on a preliminary assessment. The Commission's final determination will be based on the record developed in that proceeding. The Commission, under Docket 38904, proposes to eliminate the Uniform System of Accounts and to greatly reduce the reporting requirements for Class I and Class II common and contract motor carriers because it believes that voluminous reports are no longer necessary for regulatory oversight. The Commission's main reason for requiring reports has been to have available uniform cost and financial data for monitoring the industry and for use in the ratemaking process. The Motor Carrier Act of 1980 substantially increased the latitude of individual carriers to make rate changes. These freedoms are now being used extensively in the industry. The proposal contains a condensed report which is considered to be all that is needed for monitoring the industry. For collective ratemaking purposes, we believe the rate bureaus and carriers can develop a data collection system capable of sustaining the ratemaking process.

SENATOR ANDREWS: What effect, if any, does your Docket 38904 have upon your supplemental request?

ANSWER: Our supplemental request is for FY 1985 and is not affected by Docket 38904. The earliest the proposal could take effect would be for the 1985 reports which are not due until March 31, 1986.

SENATOR ANDREWS: The Committee understands that the Commission retains outside contractors to process both rail and truck data. How much does this outside vending cost the Commission? Are the costs reasonable in the opinion of the Commission? What are the per unit costs being charged the Commission?

ANSWER: For FY 1985, the total cost for processing both rail and truck data is $70,618. The cost is considered reasonable because the competitive bidding procedures were followed, and the contract price was thoroughly evaluated before the negotiated contract was approved. For rail data, an estimated 47,000 records (lines of data) will be purified at a fully allocated cost of $.395 per unit for the first year of the contract.

SENATOR ANDREWS: Does Docket 38904 affect this arrangement?

ANSWER: Yes, Docket 38904 would decrease the total contract costs by an amount equal to the costs of processing the motor carrier data.

SENATOR ANDREWS: If there is a change in the financial condition of the motor carrier industry (e.g., due to fuel costs) could the Commission ascertain why the change occurred from the abbreviated information it proposes to collect? How?

ANSWER: The Commission would have greater difficulty in determining specific cost increases from analyzing data on the proposed abbreviated form. However, the Commission would be able to monitor increases in aggregate disclosures such as total operating expenses, and if significant, the Commission could direct inquiries to individual carriers. Otherwise, it would be necessary to review financial reports from other sources (trade and carrier associations).

SENATOR ANDREWS: Will the Commission be able to assess the financial condition of the Class II motor carriers? How?

ANSWER: No, the Commission is proposing abbreviated reports from only the Class I motor carriers with total annual operating revenues exceeding $5 million. Reports from Class II motor carriers will not be required. The Commission believes that analyzing Class I motor carrier data would provide an adequate indication of the financial condition of the motor carrier industry. Class I motor carriers' operating revenues comprise about 90% of the total transportation revenues for all Class I and Class II motor carriers.

SENATOR ANDREWS: What impact does this change have on State regulatory agencies that allow carriers to submit data using existing ICC forms? Doesn't the change encourage a multiplicity of reporting forms and accounting formats? If not, why not?

ANSWER: Those State agencies which have chosen to follow the ICC format in the past will probably continue to require reporting as it presently exists. There is no apparent reason to change. This would not result in a multiplicity of formats beyond the different requirements at present. Both petitions which have been received asking for extensions of time have expressed concern on this subject. It will be fully addressed in reaching the final decision.

SENATOR ANDREWS: During a period of change (in emphasis) in enforcement and investigations, wouldn't it be more appropriate to have a consistent historic set of data and future data to measure change?

ANSWER: Yes, a consistent and comprehensive set of data would allow changes to be more easily measured. The condensed report proposed in Docket 38904 would not contain the level of detailed reporting required in previous years, but it would provide data at a summarized level consistent with that of the past. This continuity will provide a relevant, consistant set of data with which to measure changes in the industry.

SENATOR ANDREWS: For the Bureau of Accounts please provide a breakdown of costs (by personnel and other resources) expended in the rail area and in the motor carrier area.

ANSWER:

	Motor	Rail
Personnel costs	$944,000	$4,528,000
Contracts	25,000	75,000
Travel	-	308,000
Other expenses	259,000	897,000
Total	$1,228,000	$5,808,000

SENATOR ANDREWS: Since Congress has not eliminated collective ratemaking authority for truckers in joint line movements, is the Commission monitoring the collective ratemaking process?

ANSWER: The Commission is both monitoring rate committee meetings and conducting compliance surveys of 49 U.S.C. 10706 rate bureaus of all modes.

The monitoring program entails unannounced attendance at rate bureau meetings to determine if the sessions comply with the various regulations that cover collective ratemaking. For the 10 major rate bureaus, the staff observe a minimum of four meetings per year. In addition, staff members attend at least one meeting per year of all other rate bureaus operating under agreements approved by the Commission.

Eighteen compliance surveys are also scheduled to be accomplished in FY 1985; 15 of which pertain to motor carrier ratemaking. This follows the pattern which has been in effect since FY 1978. With the removal of immunity from the antitrust laws for single-line ratemaking on July 1, 1984, it has become even more important to continue close scrutiny of motor carrier ratemaking. Eight of the major motor carrier rate bureaus were surveyed between July 1, 1984, and September 30, 1984. Because of the need to conserve travel funds, only 3 of the 18 surveys scheduled during FY 1985 have been completed. However, because of the importance of this activity, the balance of the program will be completed during the fiscal year if at all possible.

SENATOR ANDREWS: Does the Commission need to continue to prepare financial reports on the trucking industry? Why? If not, why not?

ANSWER: Yes, there is a need for the Commission to continue to prepare reports on the trucking industry. The proposed condensed format would provide data necessary to produce earnings reports, information for oversight hearings, and selected data for the Annual Report to Congress in a manner consistent with prior years.

SENATOR ANDREWS: Are there alternative sources where the Commission, Congress or consumers can get objective and comprehensive data on the financial status of the trucking industry?

ANSWER: Alternative sources of comprehensive financial trucking data are limited. Data on publicly held transportation companies may be acquired from financial reports filed with the Securities and Exchange Commission and reports to stockholders. Also, certain aggregate financial information may be available from industry trade associations.

SENATOR ANDREWS: Is any proprietary data collected with tariff rate filings?

ANSWER: No. Simply stated, tariffs are the medium used by carriers, in accordance with the law, to describe the transportation services they offer and the prices they charge for those services.

SENATOR ANDREWS: Has the Commission investigated the possibility of contracting out the motor carrier tariff rate filings? What were the results?

ANSWER: The Commission has not previously considered contracting out the motor carrier tariff filings but this is an option that will be explored in the process of our agency-wide reorganization study.

The possibility of complete economic deregulation of the motor carriers of freight in the near future will bear heavily on the proposal. Deregulation of motor freight would put the Commission out of the motor carrier tariff filing business. Since those tariffs comprise approximately 90% of tariff receipts, we consider it prudent to weigh very carefully the obligation of our limited resources to planning and implementing a proposal of this magnitude.

At one time the Commission maintained a separate tariff file for the public's use. The maintenance of this file was contracted out in 1979. When the Commission decided to merge the public file with the official file, the contract was terminated. In the last year of that contract, the cost was $300,000 for receiving and filing 650,000 tariff documents. In the past fiscal year, the

Commission received 1,262,000 tariff documents and maintained the file at an approximate cost of $575,000. Thus, we are handling twice as many documents today at less than twice the 1981 contractual cost.

SENATOR ANDREWS: In an effort to save costs could the Commission contract this collection function to a data processing concern?

ANSWER: Assuming that the question relates to the collection of tariff data, our experience with the contracting out of the Public Tariff File several years ago suggests that it is not likely that the Commission could reduce costs by contracting out this function under current circumstances and conditions. As explained in our earlier response, with the uncertainty of the future of the current tariff filing requirements, the Commission does not consider it prudent, at this point in time, to actively pursue such a program, though we will explore the proposition in our reorganization study.

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE (OCCA)

SENATOR ANDREWS: The requested supplemental for this office is seven percent higher than the original request. The supplemental request is 10 persons less but $488,000 more than the original. Why?

ANSWER: In formulating the original FY 1985 budget request, the Commission employed a different method of distributing costs than the method used in formulating the supplemental and the FY 1986 budget. There are two primary differences in these methods. The method used for the original budget request applied Commission-wide average salaries to all offices except the Commissioners' and distributed most non-personnel costs on a pro-rata basis. Changes in our computer capability and our accounting system in 1984, enabled us to develop individual average compensation costs by bureau and office and to assign costs more accurately to these offices based on actual use.

However, the most significant factor in this cost swing, where staff is decreasing and overall costs are increasing, is the change in the makeup of the OCCA staff from 1983 to 1984. In 1983, when the estimates were being developed for the original request, OCCA had approximately 390 employees. During the next year and by the time the supplemental was developed, this office lost over 60 employees through attrition. Most of these employees were lower graded employees whose salaries were well below the average. The resulting effect is that the office's average cost per person increases.

SENATOR ANDREWS: Why in the face of budget cuts couldn't any efficiencies be found?

ANSWER: The Office of Compliance and Consumer Assistance (OCCA) has taken several actions to reduce costs and improve efficiency. There has been an increase in the use of non-judicial consent agreements to resolve enforcement cases that might otherwise be subject to protracted court actions, which generally include costly discovery procedures, witness fees, travel, and other related expenses. Since the main objective is to obtain compliance, and consent agreements attain that end, we will continue to use this enforcement option whenever possible. Additionally, OCCA cut its travel expenses 49 percent in the first five months of FY 1985, compared to the same period of FY 1984; all outside training has been suspended; telephone costs and space requirements have been drastically reduced; subscriptions for the reference materials and periodicals provided the field offices have been cut back. Moreover, since the start of FY 1985, through reduction-in-force, retirements, and voluntary resignations, OCCA staff has been reduced by 16 percent.

SENATOR ANDREWS: How is the almost half a million additional dollars going to be spent? How much is for personnel, how much for non-personnel related expenses?

ANSWER: The distributions of costs under both the original FY 1985 budget and the supplemental request are shown below. The $488,000 difference between these two estimates results from different cost estimating methodologies between the original FY 1985 request and the supplemental request, not because of any incremental addition of personnel or nonpersonnel resources.

(in thousands of dollars)

	Original FY 1985	Supplemental FY 1985	Difference
Personnel Compensation and Benefits	$11,153	$11,484	$331
Travel	750	714	(36)
Non-personnel costs	2,453	2,646	193
TOTAL	$14,356	$14,844	$488

SENATOR ANDREWS: What has the Commission done to implement the safety fitness rulemaking required by Section 215(d) of the Motor Carrier Safety Act of 1984?

ANSWER: The Commission cannot complete its rulemaking until the corresponding Department of Transportation (DOT) rulemaking is completed. Chairman Taylor has met with Administrator Barnhart and mutual understanding has been reached as to the general provisions required. Staff members from both agencies have met several times, and it is our understanding that the DOT Notice of Proposed Rulemaking is undergoing internal DOT clearance at this time. The Commission's Notice of Proposed Rulemaking will be issued at the appropriate time, to coincide with the DOT rulemaking. It is expected that the entire process will be in place by the fall of 1985.

SENATOR ANDREWS: What has the OCCA done to centralize the granting of temporary truck and bus franchises now handled through six regional boards? What efficiency is lost by centralizing these functions? What benefit is retained by keeping these functions with the regional boards?

ANSWER: Until February 1980, temporary authorities were handled centrally. The function was transferred to the regions, with no increase in regional staffing levels, to increase the responsiveness of the program to the needs of the carriers and the shippers requiring the service. At present, the functions are being performed with approximately 10 staff-years of resources; no staff member, including board members, dedicates his or her time exclusively to temporary authority functions.

Even while temporary authority filings continued at a high volume, the elapsed time from filing to decision was reduced steadily and a 4,000 case backlog existing when the function was transferred to the field was eliminated. Before decentralization, emergency temporary authorities were taking two to three months from filing to decision and temporary authorities were taking six to nine months. By FY 1984, the time had been reduced to an average of two to three days for emergency temporary authorities and 23.8 days for temporary authorities, even though the latter require a 15-day public notice period. During the 4-1/2 year period, the regional boards entered about 75,000 decisions, of which only 1.5 percent were appealed and reversed.

It is much more efficient to handle this function at the regional level because the decisions can be made where the carriers' complaint and compliance files are maintained and where safety and other fitness can most readily be determined. Moreover, experience has shown that the time from application to decision is considerably shorter when handled on a regional basis than when handled centrally. For these reasons, the Commission has taken no steps to centralize the granting of temporary truck and bus licenses now handled through six regional boards.

SENATOR ANDREWS: Could the Office of Proceedings handle these reviews? Why not?

ANSWER: While the Office of Proceedings has staff with the technical ability to handle the review of temporary authority applications, it does not currently have a sufficient number of staff to absorb this function. If the decisionmaking were to be transferred from the Office of Compliance and Consumer Assistance to the Office of Proceedings, the decisionmaking would be removed from:

- The location to which carriers and shippers look for advice on operational matters and the filing of the subject applications.
- The location at which all complaint, compliance, safety, and other fitness information concerning the carriers is maintained.
- The staff upon which the decisional body would continue to rely for operational information and recommendations.

Moreover, it is not insignificant that mailings to the regional office can be put into the substantive authority process more quickly than at Washington because of the voluminous mailings of all kinds received at headquarters. The result of this alone, inasmuch as the processing could be otherwise identical, would lead to decisional delays in a licensing area which is specifically designed to meet the immediate and urgent needs of the public. These matters will be reviewed as part of the current reorganization study.

SENATOR ANDREWS: Why is a disproportionate number of additional personnel being assigned foreign-carrier responsibilities and only a few to the general safety/fitness area?

ANSWER: The nature of the Office of Compliance and Consumer Assistance responsibilities under the Motor Carrier Safety Act of 1984 is such that a higher number of additional resources is required in FY 1985 for the foreign carrier responsibilities than for the safety fitness area.

There is an increase of two staff-years (identified on page 13 of our supplemental request) specifically allocated in FY 1985 to the new safety fitness standards that must be adopted under the Motor Carrier Safety Act. One and three-fourths staff-years relate to the attorney time devoted to participating in the rulemaking that will result in new safety fitness standards. The remaining one-quarter staff-year is an estimate of the increased attorney time that will be devoted to individual fitness cases during the balance of FY 1985. This increased figure is rather small, because it is anticipated that new safety fitness standards will not be applicable until late in the year. This staff time is in addition to resources currently devoted to safety fitness in the licensing, compliance, and enforcement areas.

Safety fitness has been designated by the Commission as a high-emphasis enforcement matter. The staff presently devotes whatever time is necessary to this activity to assure that any safety problems of carriers are considered in the Commission's licensing process. It is anticipated that once the new safety fitness standards are adopted and we move into FY 1986, this activity will receive even greater attention.

On the other hand, the foreign carrier provisions will require new activities, and even though the breakdown of staff-years shows resources for these activities greater than for safety fitness, that is only with respect to these additional resources. Overall, much more staff time will be devoted to safety fitness (through licensing, compliance, and enforcement) than to foreign carrier requirements.

SENATOR ANDREWS: Has this office done any analysis on the effects of complete deregulation of the trucking industry which the President suggested in the State of Union Address?

ANSWER: Yes, it has done an analysis of the effects on staff levels. The basis for the review assumes that motor carrier deregulation will not include the household goods and passenger carriers, and that some form of regulation, including entry control and insurance, as well as consumer assistance responsibilities, will remain in effect for those carriers. On that basis, it is estimated that motor staffing requirements of the Office of Compliance and Consumer Assistance could be reduced by approximately 80 percent after the implementation of complete motor freight deregulation.

SENATOR ANDREWS: How much of the staff is devoted to the motor carrier area versus the rail area?

ANSWER: For FY 1986, it is expected that of the 261 staff years requested for the Office of Compliance and Consumer Assistance, 219 staff years will be devoted to the motor carrier area and 42 staff-years to the rail area.

SENATOR ANDREWS: How are these personnel allocations determined?

ANSWER: The allocations of staff resources for motor and rail functions are determined by the work activities that each mode requires based on the transportation statutes and the number of motor carriers versus the number of railroads. There are approximately 35,000 regulated motor carriers and 640 railroads. On the motor side, the law provides, among other things, that carriers may apply to the Commission for emergency temporary and temporary authority to operate. It also provides that regulated carriers must maintain bodily injury, property damage, and cargo insurance and have evidence of such insurance on file with the Commission. Staff resources are allocated to each of these responsibilities, along with such functions as responding to the high number of inquiries and complaints that are received concerning motor carrier regulation. Moreover, the various types of motor carriers (e.g., property carriers, household goods carriers, bus carriers, and brokers) each generate work activities specifically related to the type of operations they conduct.

From the standpoint of compliance and enforcement, the high number of motor carriers requires and receives a greater share of the resources than railroads. As to railroads, the resources are assigned to the Commission's car service functions, to the monitoring of the carriers' operations, particularly in respect to service, and to investigation and prosecution of serious non-compliance.

COMMISSIONER SUPPORT

SENATOR ANDREWS: Is your fiscal year 1986 budget fully supported by all the Commissioners?

ANSWER: In August, 1984, the Commission voted unanimously to approve the fiscal year 1986 budget request. At that time, only four Commissioners were on-board. Commissioners Simmons, Lamboley, and Strenio joined the Commission after the vote on the request. However, since joining the Commission, they have all indicated their support for the fiscal year 1986 request.

SENATOR ANDREWS: Briefly update the Committee on the status of Commissioner seats and terms and when will the various terms expire, by Commissioner.

ANSWER:

Commissioner and Expiration of Term

Reese H. Taylor, Jr., December 31, 1985 [1]

Malcolm M. B. Sterrett, December 31, 1987

Frederic N. Andre, December 31, 1987

Heather J. Gradison, December 31, 1988

J. J. Simmons, III, December 31, 1985

Paul H. Lamboley, December 31, 1984 [2]

Andrew J. Strenio, Jr., December 31, 1985 [1]

[1] Terms will be abolished when they expire on December 31, 1985.

[2] Commissioner Lamboley is serving in this expired term. The new term, upon appointment and confirmation, would expire on December 31, 1989.

1986 BUDGET REQUEST VS. THE SUPPLEMENTAL

SENATOR ANDREWS: The Commission is requesting $51.157 million and 923 staff-years for fiscal year 1986. Since you are proposing 923 staff-years in fiscal year 1986, why shouldn't the Committee provide for only 923 staff-years in fiscal year 1985 instead of the 949 requested in the supplemental?

ANSWER: The Commission is requesting 984 total staff-years in its supplemental request: 949 full-time permanent and 35 other staff-years.

The ICC's FY 1986 budget request is based on anticipated workload next year. Much of this workload is generated by the public. Although some workload is declining, we have no reason to believe that the levels projected for 1986 will be realized in 1985. Our FY 1985 supplemental request is based on updated FY 1985 workload projections and requests sufficient staff to adequately deal with this workload.

STAFFING

SENATOR ANDREWS: The Budget Justification states that the bulk of the workload reduction in fiscal year 1986 will occur in motor carrier regulatory functions. Yet, the rail area is cut slightly more than the motor carrier area. The "motor" dollars are reduced by 2.5 percent while the "rail" dollars are cut by 2.7 percent. Why?

ANSWER: Although funding requested for the rail and motor programs decreases by approximately the same percentage between FY 1985 and FY 1986, funding requested for the motor program has been reduced by approximately 16 percent compared to the actual expenses in FY 1984, while funding for the rail program remains relatively level over the FY 1984 to FY 1986 period. The most substantial reduction in motor program workload is expected to occur between FY 1984 and FY 1985 with a smaller reduction occurring in FY 1986.

The reduction in staff-year and funding levels for both motor and rail programs is consistent with the decline in workload.

SENATOR ANDREWS: In the budget justification (pg. 3) a reduction of 61 staff years is proposed. That assumes a fiscal year 1985 staffing level of 984. However, your revised fiscal year 1985 supplemental request is for only 949 staff years. In view of your revised fiscal year 1985 staffing figure, are you sticking with the 923 figure for fiscal year 1986, or could you revise that figure downwards as well?

ANSWER: The budget justification for fiscal year 1985 requests a total full-time equivalent employment staffing level of 984. Of the 984 total staff-years, 949 are to be dedicated to full-time permanent positions and 35 to other than full-time permanent positions, which include part-time, temporary, expert, and intermittent employees.

The 949 staff-years in the table you cited from the supplemental budget request do not include other than full-time permanent positions. This is explained by the note at the bottom of the table on page 3. The 923 total staff-year level requested for FY 1986 is the level necessary to accomplish the projected 1986 workload. Since our workload projections have not changed, we still believe the 923 staff-year level is appropriate for FY 1986.

SENATOR ANDREWS: If the status quo is maintained for trucking and rail deregulation law, do you think your staffing level should also remain at roughly current levels - or do you think more reductions can be made in future years as these acts become fully implemented?

ANSWER: Without further trucking deregulation, the Commission's staffing level should remain close to current levels. The various regulatory reform acts have now been fully implemented. Therefore, without either further legislative change or a significant change in workload, the staff requirement will remain relatively constant. As you know, we are currently reviewing our organization to determine whether major changes should be made and further economies achieved. These considerations may dictate changes in staffing levels.

SENATOR ANDREWS: Please provide for the record a copy of your current organization chart. Include number of staff assigned to each office.

ANSWER: As of March 30, 1985, the total number of permanent and other than full-time permanent staff assigned to each office is as follows:

Bureau/Office	Number of staff Assigned to Offices
Commissioners	61
Secretary	90
General Counsel	27
Proceedings	152
Special Counsel	6
Traffic	81
OTA	35
Hearings	11
Accounts	114
OCCA	281
Managing Director	90

A current organizational chart follows.

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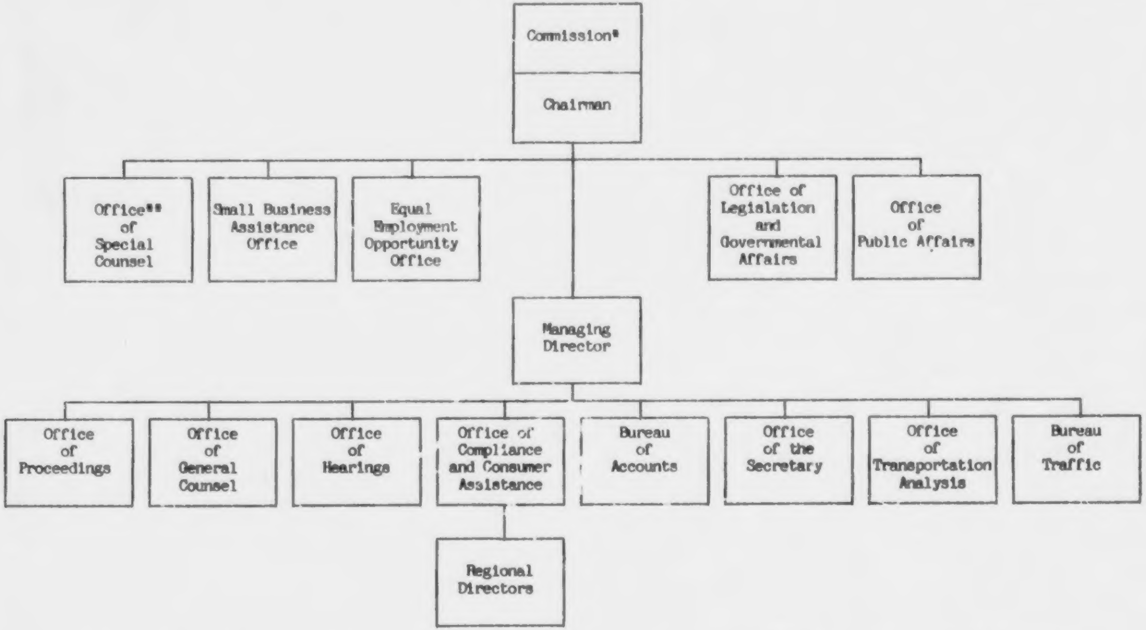
INTERSTATE COMMERCE COMMISSION

March 1985


Commission*
Chairman
Office** of Special Counsel
Small Business Assistance Office
Equal Employment Opportunity Office
Office of Legislation and Governmental Affairs
Office of Public Affairs
Managing Director
Office of Proceedings
Office of General Counsel
Office of Hearings
Office of Compliance and Consumer Assistance
Bureau of Accounts
Office of the Secretary
Office of Transportation Analysis
Bureau of Traffic
Regional Directors

* In deciding most proceedings, the Commission is divided into two divisions of general jurisdiction, each comprised of three Commissioners. Rulemakings and significant adjudications are decided by the entire Commission.

** Subject to administrative supervision of the Chairman, but in all other respects is accountable to Commission.

TRAVEL

SENATOR ANDREWS: Please also provide for the record a listing of any official overseas travel that was conducted in fiscal years 1984 and 1985 to date, including where, why, how many employees went on each trip, and how much was spent.

ANSWER: The Commission has not had any employees engage in overseas travel in fiscal years 1984 and 1985 to date.

SENATOR ANDREWS: How are travel costs allocated?

ANSWER: Estimates of travel costs are reflective of actual expenses associated with staff and workload. During the development of the budget, each office estimates its travel costs based on past experience and anticipated workload. These estimates are then reviewed by the Managing Director, who recommends a level to the Commission, which votes on the allocation as part of the internal budget process. These figures are incorporated into the budget request.

SENATOR ANDREWS: How much travel is allowed individual Commissioners?

ANSWER: The $45,000 requested for travel for all Commissioners for FY 1986 includes $5,500 for each of four Commissioners and $1,500 for each of the two Commissioners who would serve only one quarter of the year prior to expiration of their terms on December 31, 1985. The balance of $20,000 is requested for use by the Chairman and the satellite offices.

COMMISSIONERS AND THEIR OFFICES

SENATOR ANDREWS: On page 4 of your budget justification, you show a 10 staff-year reduction from 67 to 57 for the Commissioners and their Offices. Explain the reasons for this reduction.

ANSWER: The reduction to 57 in Commissioners' staffing for FY 1986 reflects the fact that the number of Commissioners will be reduced from seven to five beginning January 1986. The twelve individuals expected to be on board in these two offices will consume only three staff-years during the first quarter of FY 1986, resulting in a net reduction of 9 staff-years. A reduction of one additional staff-year will be achieved in the satellite offices, bringing the total reduction to 10 staff-years.

SENATOR ANDREWS: Last year, the Conference Report suggested the possibility of consolidating several of the small satellite offices that report to the Chairman. The Grace Commission also recommended consolidating these offices. What actions have you taken in this regard over the last year, and what savings have been made?

ANSWER: The Commission has consolidated the Office of Legislative Counsel and the Office of Governmental Affairs in the Office of Legislation and Governmental Affairs. This has resulted in a reduction from the 13 staff-years used in FY 1984 to a projected total staff-year usage of under 10 for FY 1985. Consideration of other potential consolidations will be accomplished within the context of an organization study currently being carried out by the Managing Director.

SENATOR ANDREWS: Is it possible to consolidate the Small Business Assistance Office and the Special Counsel's Office? What became of that idea? If no, why not?

ANSWER: The Commission will consider the possibility of combining these Offices within the context of the Managing Director's study of the agency's organizational structure.

SENATOR ANDREWS: You are requesting $45,000 for travel. That represents an allotment of $5,500 per Commissioner. Provide for the record a breakdown of actual travel expenditures for each Commissioner in fiscal year 1984, and what is allocated for fiscal year 1985.

ANSWER:

	FY 1984 Expenditures	FY 1985 Request 1/
Chairman Taylor and Satellite Offices	$27,025.21	$15,250
Vice Chairman Gradison	1,249.73	4,125
Commissioner Sterrett	250.00	4,125
Commissioner Andre	1,658.31	4,125
Commissioner Simmons	- 2/	4,125
Commissioner Lamboley	- 2/	4,125
Commissioner Strenio	- 2/	4,125
	$30,153.25	$40,000

1/ The amounts requested for travel in FY 1985 reflect a decision made by the Commission to cut their travel allocations by 25 percent from the amounts originally included in the President's Budget. However, the Commissioners have been very conservative about their travel, and the additional savings they are creating by deferring their travel will be used to reduce the overall funding shortfall, if the full supplemental request is not approved.

2/ Commissioners Simmons, Lamboley, and Strenio were appointed in September 1984 and incurred no travel expenses.

SENATOR ANDREWS: Please provide for the record a breakdown of fiscal year 1985 and 1986 "other expenses" for the Commissioners and their offices.

ANSWER:

(in thousands of dollars)

Other Expenses	Fiscal Year 1985	Fiscal Year 1986
Standard level user's charge	$388	$301
Communications, utilities and other rent	157	130
Printing and reproduction	43	31
Other services	36	3
Supplies and materials	27	25
Furniture and equipment	6	5
Leasehold improvements	6	5
Miscellaneous costs	2	3
TOTAL	$665	$503

NOTE: In preparing these budgets, the Commission did not collect and project expense data by Bureau and Office for most items other than personnel, contracts and travel. Accordingly, "other expenses" were estimated for the agency as a whole. Therefore, in order to provide the information you have requested, we have distributed the "other expenses" to each office primarily on the basis of authorized staff-years.

GENERAL COUNSEL

SENATOR ANDREWS: Why did the travel expenditures for the Office of the General Counsel actually increase by 67 percent between fiscal years 1984 and 1985 when the workload for this office declined significantly in that time period.

ANSWER: The FY 1984 expenditure of $15,000 was unusually low because a large number of motor licensing cases appealed by the same carriers were consolidated and disposed of at one time. The FY 1985 allocation of $25,000 is based on an anticipated caseload requiring frequent travel to a number of different Circuit Courts.

OFFICE OF THE SPECIAL COUNSEL

SENATOR ANDREWS: The Office of Special Counsel has assisted protesters to more effectively present their positions to ICC during rail abandonment proceedings. Have requests for such assistance been increasing during the past few years? If so, by how much?

ANSWER: Requests for assistance in rail abandonment proceedings increased significantly in the last few years and dramatically in the last few months. From fiscal 1983 to 1984, such requests for assistance increased approximately 50 percent, and in the second quarter of FY 1985, after publication of OSC's rail abandonment booklet in December 1984, requests have jumped over 100 percent.

SENATOR ANDREWS: How effective is the assistance provided by the Special Counsel? Please provide a list of activities.

ANSWER: The mission of the Office of Special Counsel (OSC) is to assist in developing a more complete public interest record in Commission proceedings. OSC does this by offering information and assistance to concerned consumer groups, small communities, State transportation regulatory agencies, small carriers, and public officials who are affected by Commission proceedings, but may not be familiar enough with Commission procedures to participate effectively. OSC publishes, updates, and widely distributes publications explaining Commission regulations, procedure, and precedent in rail abandonment and intrastate bus rate and service discontinuance cases.

Thus, the effectiveness of OSC's assistance should be gauged by the satisfaction of these public groups that they have been enabled to understand and to participate fully in Commission proceedings. The Commission has received letters attesting to this satisfaction from State regulatory agencies, shipper organizations, small carrier organizations, private attorneys, and individuals.

OSC's activities include counseling and assistance in the entire spectrum of the Commission caseload, but especially in:

A. Rail abandonment cases including formation of new short lines. Attendance and active community assistance if scheduled for oral hearing.
B. Rail construction cases. Attendance and active community assistance if scheduled for oral hearing.
C. Rail surcharge and rate cancellation cases.
D. Intrastate bus rate and service discontinuance cases.

OSC participates in certain rulemaking proceedings, such as the Bus Act implementation rulemakings and the rulemaking concerning regulation of intercity bus passenger service, in which the users of the service, the bus riding public, might otherwise have been unrepresented.

In addition OSC publishes, updates and distributes several publications explaining public participation in Commission rail abandonment and intrastate bus rate and service discontinuance cases.

SENATOR ANDREWS: Provide for the record a breakdown of Special Counsel "other expenses" for fiscal years 1985 and 1986.

ANSWER:

(in thousands of dollars)

Other Expenses	Fiscal Year 1985	Fiscal Year 1986
Standard level user's charge	$40	$45
Communications, utilities and other rent	16	19
Printing and reproduction	4	5
Other services	4	-
Supplies and materials	3	4
Furniture and equipment	1	1
Leasehold improvements	1	1
TOTAL	$69	$75

NOTE: In preparing these budgets, the Commission did not collect and project expense data by Bureau and Office for most items other than personnel, contracts and travel. Accordingly, "other expenses" were estimated for the agency as a whole. Therefore, in order to provide the information you have requested, we have distributed the "other expenses" to each office primarily on the basis of authorized staff-years.

Overall, "other expenses" do not decline as rapidly as do staff-years, because these costs are among those most affected by inflation and because most of these expenses are directly related to workload and will not necessarily decline in direct proportion to staffing reductions. Since, as overall staff-year levels decline, the share of "other expenses" assigned to those Offices whose staffing levels remain relatively stable will increase (because their percentage of the total staff-year allocations will increase), the FY 1986 "other expenses" distributed to some offices increases over FY 1985 levels.

OFFICE OF TRANSPORTATION ANALYSIS

SENATOR ANDREWS: The justification states that the primary mission of the Office of Transportation Analysis "is to ensure that economic environmental, and energy concerns are assessed in Commission decisions". Provide a breakdown by the specializations, education and qualifications of the staff.

ANSWER: Because of the diverse characteristics of the work performed in the Office, staff qualifications are presented by Section.

Front Office

The Director of the Office holds advanced degrees including the doctorate. In addition, he has had extensive industrial, academic and government experience. The Front Office staff also includes an attorney with private sector and Government experience.

Section of Energy and Environment

Six of the seven professional staff members of the Section of Energy and Environment hold degrees, including five with at least one advanced degree in environmental disciplines. Only one staff member, an Upward Mobility graduate, has yet to obtain a degree. This individual, however, is nearing completion of an undergraduate degree, attending college at night while working full time. The educational backgrounds represented include biology, geology, wildlife ecology, regional planning, economics, and social sciences.

The level of educational attainment, however, is generally less critical than practical knowledge in the development of environmental studies. The staff, collectively, has more than 50 years of experience in assessing environmental impacts associated with the regulation of the surface transportation industry. On the average, the staff members have four years of industry experience and 10 years of Government experience.

Section of Rail Services Planning

The Rail Services Planning Section has seven staff members. Many have extensive experience in the rail industry. All have had some experience in the private sector, with an average of 6 years per employee. Five of the eight staff members have degrees, including two with advanced degrees. Educational backgrounds include economics, accounting, finance, urban affairs, and conservation and resource development. The staff has a combined total of 118 years of Government service, with an average of 14 years per employee.

Section of Research and Analysis

The Section of Research and Analysis has sixteen professional staff members. Their backgrounds in education and work experience are primarily in the areas of economics, transportation operations, mathematics, statistics, and computer science. Of the sixteen, three have Ph. D.'s in economics, seven have M.S. or M.B.A. degrees in economics or transportation, and six have bachelor degrees. Several staff members holding master's degrees have completed most of the work toward the doctorate. Four have twenty or more years of industry experience with railroads, motor carriers, shippers, or consultants. The average experience outside the Federal Government is 7 years. Average Government experience for this staff is sixteen years. In addition, half of the staff has university level teaching experience in their fields, ranging from two to fifteen years.

SENATOR ANDREWS: Please provide for the record a listing of the 24 Office of Transportation Analysis studies and analyses for Fiscal Year 1985. How many of these are statutorily required? Which ones?

ANSWER: Workload numbers included in the Commission's 1986 budget submission were estimates based on the projected FY 1985 level of activity. Therefore, the actual number of projects may vary from these estimates. Eighteen of these are statutorily required. Those which are statutorily mandated are asterisked.

Motor Studies and Analyses

* 1. Food and Grocery Transportation Study as Required by Section 8 of the Motor Carrier Act.

2. A study of Replacement Bus Service in Communities Losing Bus Service.

3. Report on Female and Minority Owned Motor Carriers.
* 4. Intercity Bus Terminal Study.
5. A study of the Effects of Eliminating the Bulk Commodity Restriction in Specific and General Motor Carrier Authority Applications.
6. Impact of the Household Goods Act on Shippers and Household Goods Carriers.

Rail Studies and Analyses

1. Impact of the TOFC/COFC Exemption.
2. Study of the Effects of the Cancellation of Joint Rate and Reciprocal Switching Agreements.
3. Identification of Manufactured Commodities for Possible Rail Exemption.
4. Analyzing Approaches Toward Implementing the Evidentiary Guidelines for Market Dominance Cases.
* 5. Periodic Summary of Railroad Contracts.
* 6. Analysis of Freight Subsidy Standards for Bath and Hammonsport Railroad.
* 7. Summary of the Impact of Railroad Surcharges.
* 8. Norfolk Southern Corporation--Control--North American Van Lines, Inc.
* 9. Santa Fe Southern Pacific Corp.--Control--Southern Pacific Transportation Co.; Merger - The Atchison, Topeka and Santa Fe Ry. Co. and Southern Pacific Transportation Co.
10. Informal Monitoring Reports on the Impact of the Boxcar and Export Coal Exemptions.
11. Analysis and Release of Certain Confidential Rail Contract Rate Information to United States Department of Agriculture, the Department of Energy, and other Federal agencies.
*12. Report on Abandonment and System Diagram Mileage submitted to the Department of Transportation for use in the allocation of funds under the State Assistance Program.
*13. Environmental Impact Statement of the North Western Pacific Railroad abandoment in California.
*14. Expanded Environmental Assessment of the Denver & Rio Grande Western Railroad abandonment in Utah.
*15. Environmental Impact Statement of the Coal Rate Guildelines Nationwide.
*16. Expanded Environmental Assessment of the Florida West Coast Rail Line construction.
*17. Environmental Impact Statement of the C&NW Rail Line construction in Powder River Basin.
*18. Environmental Impact Statement of the ICAST & Western Rail Line construction in Colorado.
*19. Environmental Impact Statement of the Tongue River Railroad construction in Montana.
*20. Expanded Environmental Assessment of the Norfolk Southern/NAVL merger.
*21. Expanded Environmental Assessment of the Santa Fe/Southern Pacific merger.
*22. Environmental Assessment of the Southern Pacific (toxic waste) abandonment in California.

SENATOR ANDREWS: Explain the 78 percent increase in contracts for the Office of Transportation Analysis -- From $240,000 to $429,000. (What areas, to whom, for what purposes).

ANSWER: Following is a breakdown of the contract funds requested for the Office of Transportation Analysis in FY 1985 and FY 1986.

	FY 1985	FY 1986
Section 8 Food and Grocery Transportation Study	$15,000	$20,000
Monitoring Rail Services Exemption	60,000	35,000
Merger/Acquisition Monitoring	-	75,000
Rail Waybill Sample	77,000	75,000
Bus Industry Studies	25,000	25,000
Computer Information Service	3,000	4,000
Contract Rate Summary Data Entry	5,000	5,000
Supplemental Environmental Services	55,000	100,000
Supplemental Research and Analysis Expertise	-	90,000
TOTAL	$240,000	$429,000

The most significant increases in requested funds are in the areas of merger/acquisition monitoring, supplemental environmental services, and supplemental research and analysis expertise.

The Commission anticipates that the movement towards mergers will grow in FY 1985 and FY 1986 as a result of the recently approved CSX Corporation-American Commercial Lines, Inc., case, the pending Norfolk-Southern-North American Van Lines case and the pending sale of Conrail. In anticipation of a significant increase in intermodal mergers and acquisitions, several contract studies are planned for FY 1986 to monitor the results of mergers and to evaluate their impact on service, prices, and intramodal and intermodal competition.

The funds requested for supplemental environmental services and supplemental research and analysis expertise will be needed to compensate for lack of staff expertise. The Section of Energy and Environment must rely heavily on consultants in developing environmental documentation for rail construction, abandonment, merger, and other casework. The Section of Research and Analysis anticipates a heavy need for contractual support because of the number of projects they expect to be involved in during FY 1986 and their lack of staff expertise in some areas.

SENATOR ANDREWS: Why do travel costs increase over the 1985 level?

ANSWERS: With the supplemental request, travel would total $1,150,000. In terms of what was spent in FY 1984 and what we requested for FY 1985, this is not an increase. Rather, this represents a reduction of $151,000 from the amount expended in FY 1984 and a reduction of $56,000 from the amount requested in the President's FY 1985 budget request. The total amount requested ($1,150,000) is needed to perform program travel associated with (i) the accomplishment of carrier audits necessary to ensure the integrity of carrier financial information, and (ii) the performance of those levels of compliance monitoring, investigation, and litigation activities that we believe are essential to conduct an effective enforcement program. The funding requested will also be used to cover the costs of necessary administrative and management oversight travel, none of which is being performed at the $48 million level.

SENATOR ANDREWS: How much does this office, OTA, spend on outside contracts? Please provide the information for 1980 through 1984, estimated for 1985 and projected for 1986.

ANSWER: Such information for fiscal year 1980-1982 is not available. However, actual data for fiscal years 1983 and 1984 and projections for fiscal years 1985 and 1986 follow:

OFFICE OF TRANSPORTATION ANALYSIS
(in thousands of dollars)

	FY 1983	FY 1984	FY 1985	FY 1986
Rail Waybill Sample	$183	$184	$ 77	$ 75
Computer Services	-	23	8	9
Monitoring Rail Services Exemption	24	-	60	35
Bus Industry Studies	7	22	25	25
Section 8-Food and Grocery Transportation Study	10	10	15	20
Supplemental Environmental Services	35	101	55	100
Cost Recovery Percentage Analysis	-	10	-	-
Merger/Acquisition Monitoring	-	-	-	75
Supplemental Research and Analysis Expertise	-	-	-	90
Total	$259	$350	$240	$429

BUREAU OF ACCOUNTS

SENATOR ANDREWS: You are requesting 105.2 staff-years for the Bureau of Accounts. The Chairman stated last year that if staffing for this bureau were reduced to 106, all motor carrier regulatory functions would be eliminated. That means no motor carrier audits, no cost studies for general rate increases, no publishing of financial information, and no data collection. Is that what this budget proposes? If no, why not?

ANSWER: The FY 1985 staffing level of 106 included 102 positions for rail functions and 4 positions basically to perform required motor carrier case work. The FY 1986 staffing level of 105 includes 90 positions for rail functions and 15 positions to perform motor carrier functions. The decrease of 12 positions for rail functions is accomplished through productivity and reorganizational savings as well as anticipated decreases in workload in FY 1986. To enable the Bureau to perform minimal motor carrier functions, in addition to the 4 motor carrier case work positions, 11 positions would be required in FY 1986.

SENATOR ANDREWS: On page 50 you propose to contract out a motor carrier cost study for $150,000. This activity was previously done in-house. Why the decision to contract this out--how much money will you save?

ANSWER: Part of the budget process involves seeking alternative ways to accomplish our goals at reduced cost. Contracting out other functions involving forms processing and data collection has proven to be highly successful. Our motor cost studies seemed to be a likely candidate for this alternative.

There are currently four positions required to perform data collection and analysis for motor cost studies, at a salary and benefit cost of approximately $270,000 for 2 years. A rough estimate of possible contract costs associated with these functions is $150,000, based on the types and costs of services now being performed by contract (not based on a formal solicitation of bids). The difference between these two approximate amounts, around $120,000, can be saved by pursuing this alternative.

SENATOR ANDREWS: What percent of this office's resources is spent in analysis? Is this statutorily required? How much time of the Bureau of Accounts is spent with OTA on studies?

ANSWER: In terms of staff-years, the Bureau of Accounts is devoting 24 staff-years in FY 1985 (at the supplemental level of 116 FTE's) to casework analyses. In FY 1986, this is estimated to require 22 staff-years. Casework analyses include costing, financial, and engineering analyses of evidence submitted in rate, abandonment, and merger cases. The analyses are used by the Commission in making decisions on these cases, as required by statute. The Bureau also analyzes all Class I railroads to keep the Commission and Congress informed on their financial condition. This effort requires four staff-years and is not statutorily required.

The missions of the Bureau of Accounts and OTA are distinct. The Bureau of Accounts is essentially involved in maintaining accounting and operating data for costing and financial analysis. OTA is involved in conducting case analyses and special studies of an economic and environmental nature. While these studies may occasionally use accounting data, they do not require the direct involvement of the Bureau.

SENATOR ANDREWS: How can the Bureau of Accounts be reduced by 11 staff-years as proposed in the FY 1986 budget request?

ANSWER: In preparing the budget, projected workload, possible organizational changes and contracting as an alternative to doing activities in-house were evaluated. This resulted in the reduction of 11 staff-years for FY 1986 as follows: anticipated reductions in workload - 3 positions, reductions in supervisory and other overhead staff - 4 positions, and contracting the 1986 Motor Regional Cost Study - 4 positions.

OFFICE OF COMPLIANCE AND CONSUMER ASSISTANCE

SENATOR ANDREWS: Regarding your Office of Compliance and Consumer Assistance, what actions have you taken over the last year to address the problems GAO raised last year about your enforcement program? (GAO report, RCED 84-131. May 24, 1984.) Please provide for the record a detailed explanation of what actions your have taken within the last year, addressing the actions to specific redommentations of the GAO.

ANSWER: The Commission has taken the following specific actions in the areas recommended by the General Accounting Office regarding the enforcement program.

On July 25, 1984, the Commission met in open conference to discuss the direction of the enforcement program within the revised regulatory environment. As a result of that conference, the Commission issued an Enforcement Policy statement. The Enforcement Policy is predicated on the rationale that since the National Transportation Policy, as amended by the Transportation Reform Acts of 1980, stresses a pro-market mandate, the enforcement program, where possible, should encourage marketplace solutions. The Commission also decided that, consistent with the National Transportation Policy, certain categories of violations warrant special enforcement attention. The Commission identified 11 high emphasis enforcement categories and directed the Office of Compliance and Consumer Assistance (OCCA) to concentrate its enforcement resources in these areas. The high emphasis categories, in alphabetical order, are as follows:

Antitrust
Ethics
Fitness/Safety
Household goods
Illegal lumping
Insurance
Kickbacks
Overcharges/Duplicate payments/C.O.D.
Owner-Operator problems
Unauthorized passenger carrier operations
Weight Bumping

The Commission also emphasized that no violations of the law should be ignored, and that any serious infraction, regardless of the fact that it was in a lower enforcement category, would be pursued.

The Commission also provided its enforcement staff with the flexibility recommended by the General Accounting Office to initiate compliance surveys of carriers for the purpose of discovering serious non-compliance in the high emphasis areas. Specifically, the Commission directed OCCA to continue to rely on complaints as one indicator for the allocation of enforcement resources. However, OCCA was further instructed that where "more serious" types of high emphasis violations exists, which do not receive adequate attention as a result of complaint-driven investigations, adequate enforcement resources should be allocated in order to address such areas.

The Commission also took action in respect to the General Accounting Office's recommendation concerning the maintenance and use of computer data to monitor enforcement activities. On October 1, 1984, OCCA installed a new program which records all staff assignments and tracks staff time devoted to the assignments. Specifically, in respect to final investigations, each assignment is coded by one of 20 enforcement categories. This allows us to review the types of investigations scheduled, and whether the assignments are predominantly in the high emphasis areas.

As the completed investigations move to the litigative stage, the system is designed to show the type of case (e.g., criminal, injunctive, civil forfeiture), the progress of the case, and the outcome. In addition to being able to redirect staff resources from types of investigations and cases that are of limited value or impact, the system also provides a means of evaluating the program after the files are closed.

As a final step, approximately six months after an enforcement file is closed, OCCA's Special Agent staff in the field will normally follow up to determine if the litigative actions were successful in obtaining compliance.

SENATOR ANDREWS: You proposed reducing the staffing for the Office of Compliance and Consumer Assistance by 24 staff years--from 285 to 261. Why is this reduction necessary?

ANSWER: The reduction is a continuation of a decline in staffing that started with the passage of several deregulatory statutes in 1980. At that time, the Office of Compliance and Consumer Assistance (OCCA) authorized ceiling was 608 positions.

There are a number of reasons for the reduction. There has been a concerted effort to reduce the size of the Federal Government, especially in the area of regulation. Those reductions in the Commission ceilings in general, and of the OCCA in particular, reflect that trend. Some regulatory changes have removed or reduced the need to oversee certain aspects of carrier compliance and eliminated the need for enforcement. Examples of these changes include the ability of railroads to contract certain types of service without regard to tariff requirements, and the Commission's elimination of regulation on boxcar traffic, perishable commodities, trailer-on-flat-car service, and others. Moreover, on the motor carrier side there has been a decline in the number of applications for emergency temporary and temporary authority along with a reduced number of complaints. Additionally, consistent with the National Transportation Policy, the Commission's enforcement policy is designed to promote marketplace solutions to compliance related problems, with enforcement primarily targeted against circumstances that cannot be resolved by the marketplace in 12 high emphasis enforcement categories defined by the Commission. All of these factors were considered in deciding to reduce OCCA's staff for FY 1986.

MANAGING DIRECTOR

SENATOR ANDREWS: What does this office do? Please provide a workload description for this office. Why are 97 staff-years needed?

ANSWER: As outlined in the Commission's budget submission, the Office of the Managing Director provides for the day-to-day administration of the Commission. It is responsible for the coordination of the Bureaus' and Offices' programs and activities; it provides all necessary administrative support for both headquarters and field staff.

The Managing Director's immediate office oversees the administrative activities of the agency and coordinates plans and operations to ensure that agency programs are run effectively, Bureau and Office responsibilities do not overlap or fall between jurisdictional lines, and resources are properly matched with workload. The office also handles Privacy Act and Freedom of Information Act requests and represents the Agency in hearings before the Merit Systems Protection Board.

The Personnel Office plans, develops, and implements the personnel management program. This includes recruitment, position management, classification, employee and labor/management relations, official personnel records maintenance, employee training, and administration of the employee benefits program.

The Budget and Fiscal Office develops and executes the Commission's budget, assesses resource use and needs, analyzes workload, reviews program accomplishments and expenditures, and provides accounting, auditing, payroll, leave administration, payment, and other fiscal services.

The Section of Administrative Services provides the following support services to the entire Commission: paperwork management, forms control, equipment evaluation and maintenance, purchasing, contracting, supply, property management, building maintenance, safety and security, space and facilities planning and management, telecommunications, motor vehicle administration, and parking.

The Section of Systems Development provides both computer and word processing support to the Commission through the design, development and operation of the Commission's transportation and management information systems. This includes the operation and maintenance of ADP and word processing equipment and facilities, as well as the establishment and maintenance of computer-related service contracts.

During development of the budget, this Office analyzed trends and projected FY 1985 and FY 1986 workload for each sections' major activities. Based on the projected volume, the staff-years necessary to accomplish workload projected for each activity was determined. The total requirement of 97 staff-years was developed through this process.

A workload description for this Office for fiscal years 1984-86 is included on pages 65-68 of the fiscal year 1986 budget justification document.

SENATOR ANDREWS: What success has the Commission (as a whole) had in reducing its space requirements? Please list by office square footage (reflected by SLUC charges) requirements for 1980 through 1984, estimated for 1985 and projected for 1986.

ANSWER: The breakdown of office space by bureau and office is not available for the years 1980, 1981, 1982 and 1983; however, we can present the aggregate square footage for the Commission by headquarters and field for those years.

	1980	1981	1982	1983
Headquarters	294,095	290,245	248,340	219,805
Field	141,021	124,430	116,839	113,470
Total	435,116	414,675	365,179	333,275

Office space assignments for fiscal years 1984-1986 are displayed below by bureau and office.

	FY 1984	Estimated FY 1985	Estimated FY 1986
Commissioners & their offices	29,185	27,270	19,965
Secretary	19,165	18,105	18,105
General Counsel	7,715	6,955	6,809
Proceedings	32,440	30,270	29,242
Hearings	4,640	2,812	2,223
Special Counsel	1,965	1,780	1,780
Transportation Analysis	7,365	6,780	6,780
Accounts	18,900	16,285	14,820
Traffic	19,170	16,240	15,651
Compliance and Consumer Assistance	89,690	70,865	63,132
(Headquarters)	(9,450)	(8,865)	(8,132)
(Field)	(80,240)	(62,000)	(55,000)
Managing Director	39,441	24,673	24,528
Other*	4,965	4,965	4,965
Total	274,641	227,000	208,000

* Reflects space for housing National Association of Regulatory Utility Commissions in fiscal years 1984-1986.

DIRECTED RAIL SERVICE

SENATOR ANDREWS: What is the unobligated balance in this account? Can it be used for other purposes? Do you propose keeping the unobligated balance in this account? Why?

ANSWER: As of March 31, 1985, the unobligated balance in the directed rail service account was $2,353,000. This account is a separate appropriation from which transfer cannot be made without statutory authority.

On March 27, 1985, the Commission voted to deny a request for additional compensation from the Kansas City Terminal Railway Co. (KCT). However, since the KCT has the opportunity to appeal this decision, we cannot say that the funds remaining will not be needed. Therefore, the balance should remain in this account until the KCT's appeal is decided.

POLICY QUESTIONS

SENATOR ANDREWS: Do you agree with Secretary Dole that there is no need to reopen the Staggers Act at this time? On what do you base this response?

ANSWER: We do not believe that there is a need to reopen the Staggers Act. The Staggers Act is a good piece of legislation that balances the needs of the shipping public with those of the rail industry and does not require change.

There are a number of people who are largely, if not exclusively, dependent upon rail service for shipment of certain types of commodities and for shipments in certain areas. There are potential problems for shippers in those instances where no effective competition exists, and the Commission has the responsibility of protecting those shippers against unreasonable rates.

To assist the Commission in evaluating our efforts in this area, we instituted a proceeding, Ex Parte 456, The Staggers Rail Act of 1980-Conference of Interested Parties. The objective of the proceeding is to develop a factual representation of the nature of shippers' and carriers' actual experience with post-Staggers Act rail pricing. In late February, the Chief Administrative Law Judge certified the record in this proceeding to the Commission for review. A number of rulemaking proposals were developed as a result of the Ex Parte 456 process which are now pending before the Commission.

SEPARATE EXPRESSION OF COMMISSIONER SIMMONS

I agree with my colleagues that the Staggers Act represents a balance between the needs of the shipping public and those of the rail industry. I have attempted to implement this balance during my two terms at the ICC. However, I would not presume that it is my prerogative to tell Congress whether or not additional legislation is needed. Only Congress can determine whether the Commission's implementation of the Staggers Act has made new legislation necessary.

REVENUE ADEQUACY

SENATOR ANDREWS: Who is right regarding Norfolk Southern's financial health, the Commission or the Secretary of Transportation? Please elaborate.

ANSWER: The financial condition of the Norfolk Southern is examined for different purposes by the Commission and by the Secretary of Transportation, so their findings may be different without being in conflict. The Commission's revenue adequacy determinations relate a railroad's current return from provision of rail services to its investment in those services to determine whether the return is adequate to attract reinvestment in the long-term. The Secretary of Transportation focuses on the current financial resources available to the railroad necessary to consummate a particular transaction, as well as the probable impact of that transaction on the railroad's future financial condition.

A determination that the Norfolk Southern can assemble the liquid resources required to purchase Conrail and that the result would be financially beneficial to the combined railroads in the future does not conflict with the Commission's findings that Norfolk Southern's rail operations have not generated a competitive return on their investment in railroad property and equipment. Liquidity, per se, is not a sound measure of revenue adequacy since the liquidity results in part from funds produced by the depreciation of plant and equipment as well as from the profits earned on those assets. Unless the rate of return produced by rail assets meets competitive standards, prudent business managers and investors will direct their liquid resources to alternative investments. Thus, since the Commission and the Secretary of Transportation are examining the financial condition of Norfolk Southern from different perspectives for different purposes, their answers may vary without contradicting each other.

SENATOR ANDREWS: Does the cost of capital measure understate a railroad's financial health?

ANSWER: The cost of capital is the valid measure of a railroad's long-term financial health, and rests on the economic principle that an investment must yield competitive returns in order to attract and retain reinvestment. The regulatory responsibility of the Commission requires it to consider the long-term revenue adequacy of a railroad, in conformity to the national transportation policy of maintaining a sound national transportation system. Other measurements of profitability and liquidity may be used to evaluate railroad securities for prospects of short-term profits or repayment of debt, but are unsuitable in determining the revenue levels needed to meet the long-term capital requirements of the railroads. Cost of capital is a measure of long-term financial health, and failure to meet this standard does not mean that it understates the health of the railroads in the short run.

SENATOR ANDREWS: Is the return on investment calculation applied to railroads consistent with the calculation done on other industries by other rating services?

ANSWER: Financial services which evaluate debt and equity securities use a variety of measures, including return on investment, to assess the securities of other industries. The return on investment criterion is almost universally employed in evaluating public utilities, which like the railroads, have large investments in durable assets. Public utility commissions rely on return on investment as the primary yardstick of adequate returns in their ratesetting process. Bond rating services emphasize adequacy of cash flows to service outstanding debt, while stock price analysts focus on opportunities for near-term profitability and prospective growth in assessing equity securities of railroad holding companies, as well as for other industries. Neither of these approaches, because of their focus on the short term, adequately serves the Commission's requirement to determine the revenue levels needed by the railroads to provide for their long-term capital requirements so that they may continue to provide adequate rail transportation services.

SENATOR ANDREWS: Some shippers urge dropping the cost of capital standard altogether in favor of other financial tests -- such as return on stockholders' equity. Do these proposals have merit? If not, why not?

ANSWER: A rate of return on investment equal to the current cost of capital now used by the Commission to determine revenue adequacy is intended to determine whether rail transportation service produces a sufficient return from investment in rail assets to attract and retain future investment in those assets. As a gauge of long-term revenue adequacy, it is superior to return on equity in several respects. It focuses on the profitability of railroading by excluding elements of income and expense which are extraneous to rail operations. In 1983, for example, income from sources other than railroad operations accounted for one-third of the total income of all Class I railroads. (These results do not include income of parent holding companies derived from non-railroad subsidiaries). Return on equity is also affected by railroad dividend policies which influence the amount of earnings retained. Over one-half of total stockholders' equity in the railroads in 1983 represented accrued earnings from prior years. These factors diminish the validity of return on equity as a measure of adequate current earnings.

The use of multiple financial ratios to determine revenue adequacy, such as those employed by the Commission prior to the Staggers Act, leads to subjective judgements in cases where the application of a number of different ratios yield ambiguous or conflicting results. Some arbitrary scheme of weighting for each ratio must then be devised to determine whether a railroad has crossed the threshold of revenue adequacy.

A single standard for revenue adequacy that measures whether the rate of return on investment equals the current cost of capital is a rigorous and fundamental test. Other ratios which measure financial and business risk by examining cash flows or estimating potential earnings growth are supplementary inputs to the process of determining the cost of capital. Once the cost of capital has been determined, these other indicators of financial health become redundant.

SENATOR ANDREWS: Long/Cannon requires the Commission to consider evidence of any ineffiencies in railroad management in determining the reasonableness of a rate. The Commission refused to enter into a rulemaking proceeding on this amendment, but instead affirmed that it would consider these issues in individual cases. Have you, in fact, fully considered such issues and can you give us examples of how this has affected any of the Commission's decisions?

ANSWER: To date, the Commission has attempted to examine management inefficiency, as measured by the Long-Cannon factors and related "efficiency" language at 49 U.S.C. 10704(a)(2), in two ways: (1) evaluation of evidence submitted in individual maximum rate proceedings; and (2) development of general guidelines or parameters through rulemakings such as Ex Parte No. 347 (Sub-No. 1).

We rejected a proposal by shipper interests for both the railroads and the Commission to establish a data base to develop a management efficiency measure - so-called "avoidable" revenue shortfalls. Arkansas Power & Light Co. - Amendment - Staggers Act, 365 I.C.C. 983 (1982), aff'd Arkansas Power & Light Co. v. I.C.C., 725 F.2d 716 (D.C. Cir. 1984). Instead, the Commission decided to leave to the parties in individual proceedings the choice of management inefficiency evidence they would submit.

Most decisions in this area have been procedural, concerning shipper discovery of underlying railroad data, and our desire to balance the need for relevant information against unwarranted "fishing expeditions" into commercially sensitive carrier information. Dayton Power & Light Co. v. Louisville & N.R.Co., 367 I.C.C. 365 (1983) and No. 39002, Utility Fuels, Inc. v. Burlington N. R.R. Co. et al. (not printed), served July 18, 1984. Some cases have been re-opened solely for the receipt of Long-Cannon evidence. See, e.g. No. 38188S, Westinghouse Electric Corp v. The Alton & S.Ry. Co. (not printed), served November 18, 1983, and No. 37886, Potomac Electric Power Co. v. The Baltimore & O.R.R.Co. (not printed), served June 28, 1984. The relatively few Commission and/or ALJ decisions, involving a resolution of efficiency issues, reflect a persistent evolution of standards and the submission of more relevant and probative evidence by the parties.

As an example, in an Indiana intrastate rate proceeding, complainants attempted to demonstrate inefficiency by unfavorable comparisons of: (1) net revenue to sales ratios for the defendant railroad and its corporate parent; and (2) various operating efficiency statistical measures of the railroad versus that of an uninvolved railroad. We rejected such general evidence as probative of inefficiency, since no consideration was given to differences in operating characteristics among the railroads in question, nor to any actual inefficiency of the defendant railroad itself. Petition of L&N - Review - Decision of Pub. Serv. Com. of IN, 367 I.C.C. 639 (1983), aff'd Public Service Company of Indiana v. I.C.C., 749 F.2d 753 (D.C. Cir. 1984).

On the other hand, complainants in a recent proceeding before an ALJ introduced not only statistical comparisons, but also studies designed to estimate the amount of traffic handled by the defendant railroad (Conrail) at rates that allegedly did not contribute to constant costs. Complainants used the Commission's 1981 waybill sample, and applied directly variable costs (DVC) as the standard of whether such constant cost contribution is being made. The ALJ used the showings of below-DVC traffic in finding the assailed rate unreasonable and in prescribing a rate. No. 38186S, Pennsylvania Power & Light Company v. Conslidated Rail Corporation (not printed), served July 24, 1984.

Although this latter proceeding is on appeal, it gives some indication of the evidence that is potentially relevant in measuring short-run pricing inefficiencies, together with the results that can be achieved by submitting this type of evidence. Further indications of what is probative evidence in this area, as well as that concerning long-run plant efficiency, should be forthcoming as part of the efficiency constraint in our Coal Rate Guidelines proceeding. Almost all maximum rate cases have been held in abeyance pending the release of these guidelines. Once adopted, these decisions will be reopened for the receipt of additional evidence, including relevant submittals on efficiency factors.

SENATOR ANDREWS: A rate is unreasonable if it exceeds what it would cost a shipper to build and operate its own railroad to haul that freight. This "stand alone" cost concept sets an upper limit that some consumers say is so high a level that it renders this threshold meaningless. What is your position on the stand alone cost issue--is it a reasonable test?

ANSWER: The Commission is going to have an open conference on Ex Parte 347, Coal Rate Guidelines-Nationwide, and the reasonableness of the stand alone cost test is one of the issues which will be discussed. This conference will probably be held some time in May. To make a statement of our position at this juncture would be inapproprate.

THROUGH ROUTES

SENATOR ANDREWS: What is the Commission's timetable for issuing a rule on the recently negotiated agreement by the Association of American Railroads and the National Industrial Transportation League regarding through route and joint rate cancellations?

ANSWER: On March 28, 1985, the Commission opened a rulemaking proceeding in Ex Parte No. 445 (Sub-No. 1) (copy attached) on the agreement between the Association of American Railroads (AAR) and the National Industrial Transportation League (NITL) regarding through rates, joint routes, reciprocal switching, and terminal operation. The Commission also requested comments on a proposal submitted by Railroads Against Monopoly.

The procedural schedule requests that opening comments be filed by May 17, 1985, and the reply comments be filed by June 3, 1985. Once all public statements are reviewed, the Commission proposes to adopt final rules expeditiously.

SENATOR ANDREWS: Who dissented from this agreement? Why?

ANSWER: Three parties, Consolidated Rail Corporation, Union Pacific System, and the American Petroleum Institute, filed pleadings generally supporting the objectives of the proposed agreement with certain reservations. These pleadings will be treated as comments and will be considered along with others received in response to the Commission's notice issued March 28, 1985.

In addition to these pleadings, an alternative proposal was submitted by Railroads Against Monopoly (RAM) whose members include: Bessemer & Lake Erie Railroad Company; Elgin, Joliet and Eastern Railway Company; Florida East Coast Railway Company (which does not agree with the entire proposal); Grand Trunk System; Green Bay and Western Railroad Company; Milwaukee Railroad; Missouri-Kansas-Texas Railroad Company; Pittsburgh & Lake Erie Railroad; and Soo Line Railroad Company. The RAM proposal is designed to address the concern of small regional railroads that cancellation by large carriers of their joint rates and through routes adversely affect their ability to compete. These carriers do not believe that the AAR/NITL agreement would offer them effective relief.

The Commission has specifically requested comments addressing the merits of both proposals, as well as suggestions for modifications or combinations of these proposals.

RAIL ABANDONMENT

SENATOR ANDREWS: Post Staggers, how many abandonments affecting how many miles were decided by the Commission? How many were denied? How many appealed? How many reversed on appeal?

ANSWER: The following exhibit indicates the number of rail abandonments acted upon by the Commission under each of the four statutory provisions relating to abandonments during 1983 and 1984. There is also a list of abandonment actions from FY 1983 through March 1, 1985, delineated by State. (Abandonments covering more than one State are recorded under the State primarily affected.) The information shown reflects the ultimate decision rendered by the Commission. The numbers of appeals or reversals in the intermediate decisional process are not captured by our information system and are therefore not available. Information for years prior to 1983 is not readily available.

(The information follows:)

We have added the prefix "XN" or "XP" to indicate whether the proceeding involved an abandomnemt exemption. There are two types of exemption cases. Petitions for exemption are cases decided based on the exemption criteria. These cases are designated "XP". The Commission has also established a special category of exemption cases for lines that have been out of service for two or more years. These cases are subject to the notice of exemption procedures at 49 C.F.R. 1152.50 and are designated "XN". Finally, there are certain exemptions which were docketed as finance docket "FD" cases instead of abandonments. These cases are listed separately.

The Conrail abandonments are all docketed under docket number 167. It should be noted that under NERSA all Conrail abandonments must be granted unless an offer of financial assistance to purchase or subsidize the line is filed. We have tried to indicate those Conrail lines which have been sold or subsidized. The bankrupt carriers are basically the Milwaukee, docket number 7, and until mid-1984 the Boston & Maine, docket number 32. If a carrier is subject to the jurisdiction of a reorganization court, the Commission recommends whether abandonment should be authorized. However, the court makes the ultimate decision.

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                                             ALL FY 1983

DECIDED ABANDONMENT CASES BY PRIMARY STATE IMPACTED
TOTAL OF   178 CASES DECIDED AS OF Mar-12-1985

DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                          TITLE
..............................................................................................................................
     6 155 BN    Jul-29-83 G AL         2.39         BIRMINGHAM 500 ZONE LINE,CITY OF BIRMINGHAM,COUNTY OF JEFFFERSON
     6 159 BN    Aug-29-83 G AL        10.88         BETWEEN PRATT CITY & BESSMER IN JEFFERSON COUNTY
     6 169 BN    Nov-03-83 G AL         8.46         BETWEEN WINFIELD AND BROOKSIDE IN MARION COUNTY
    55  69 SBD   Jul-28-83 G AL         4.20         BETWEEN BOYLES AND RUFFNER IN JEFFERSON COUNTY
    55  82 SBD   Oct-17-83 G AL         6.12         BETWEEN ELMORE AND WETUMPKA IN ELMORE COUNTY

TOTAL CASES FROM  ALABAMA          5
TOTAL MILES GRANTED:      32.05

    14   4 NWP   Feb-27-83 D CA          .00         BETWEEN OUTLET AND EUREKA IN MENDOCINO,TRINITY AND HUMBOLDT COUNTIES

TOTAL CASES FROM  CALIFORNIA       1
TOTAL MILES GRANTED:        .00

     6 145 BN    May-16-83 G CO        13.29         BETWEEN FORT COLLINS AND REX IN LARIMER COUNTY
    33  21 UP    Feb-08-84 G CO         2.75         BOULDER BRANCH IN BOULDER , BOULDER COUNTY

TOTAL CASES FROM  COLORADO         2
TOTAL MILES GRANTED:      16.04

    55  67 SCL   Apr-29-83 G FL        10.33         BETWEEN OCOEE AND DR.PHILLIPS IN ORANGE COUNTY
    55  73 SBD   Aug-09-83 G FL         3.42         BETWEEN ELLSWORTH JUNCTION AND ASTATULA IN LAKE COUNTY
    55  80 SBD   Dec-01-83 G FL        20.46         BETWEEN TALLAHASSEE AND ST. MARKS IN LEON AND WAKULLA COUNTIES
    55  81 SBD   Aug-08-83 G FL         2.41         BETWEEN LAKE ALFRED AND WINTER HAVEN IN POLK COUNTY
    55  83 SBD   Feb-13-84 G FL        19.33         BETWEEN WINTER GARDEN AND GROVELAND IN ORANGE AND LAKE COUNTIES
    55  87 SBD   Nov-04-83 G FL        22.29         BET GAINESVILLE & HAWTHORNE & ROCHELLE & MICANOPY JCT, ALACHUA COUNTY
    55  88 SBD   Dec-02-83 G FL        36.30         BET HARRISBURG & IMMOKALEE IN COLLIER,GLADES & HENDRY COUNTIES

TOTAL CASES FROM  FLORIDA          7
TOTAL MILES GRANTED:     114.54
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                          TITLE
.........................................................................................................................................
    28   6 CGA    Sep-06-83 G GA        72.10                  BETWEEN DOUGLAS & KIRBY IN COFFEE,JEFF DACIS,MONTGOMERY,TOOMBS,EMANUEL
    55  72 SCL    Sep-07-83 D GA          .00                  BETWEEN SESSOMS AND ALMA IN BACON COUNTY
    55  76 SBD    Aug-08-83 G GA         3.29 FL         26.00 BET CLIMAX, DECATUR COUNTY,GA & CHATTAHOOCHEE,GADSDEN COIUNTY,FL


TOTAL CASES FROM  GEORGIA          3
TOTAL MILES GRANTED:      75.39


     1 146 CNW    Nov-03-83 G IA         9.00                  BETWEEN GLADBROOK AND CONRAD IN TAMA AND GRUNDY COUNTIES
     1 151 CNW    Jan-19-83 G IA        16.80                  BETWEEN MANNING AND CARROLL IN CARROLL COUNTY
     1 152 CNW    Apr-01-83 G IA         9.30                  HICKS-BUCKINGHAM LINE IN BLACKHAWK AND TAMA COUNTIE
     6 129 BN     Jan-21-83 G IA         9.41                  BETWEEN HASTINGS AND HENDERSSON IN MILLS COUNTY

TOTAL CASES FROM  IOWA             4
TOTAL MILES GRANTED:      44.51

   167 670 CR     Jul-02-84 G DE          .50                  BET CHRISTIANA AND NEW CASTLE, NEW CASTLE COUNTY
   167 767 CR     Jun-20-84 G DE          .78                  BET 12TH STREET AND PINE STREET IN WILMINGTON,NEW CASTLE COUNTY
   167 780 CR     Aug-06-84 G DE         3.00                  NEW CASTLE INDUSTRIAL TRACK IN NEW CASTLE COUNTY
   167 837 CR     Jul-13-84 G DE          .78                  CHRISTIANA AVENUE TRACK IN WILMINGTON,NEW CASTLE COUNTY
   167 862 CR     Nov-15-84 G DE          .90                  WILMINGTON AND NORTHERN BRANCH IN NEW CASTLE COUNTY
   167 867 CR     Aug-06-84 G DE          .80                  WILMINGTON, NEW CASTLE COUNTY
   167 868 CR     May-17-84 G DE         1.00                  CHRISTIANA LEAD TRACK IN WILMINGTON IN NEW CASTLE COUNTY

TOTAL CASES FROM  DELAWARE         7
TOTAL MILES GRANTED:       7.76


    55  90 SBD    Dec-29-83 G FL         5.48                  BETWEEN MABEL AND TARRYTOWN IN SUMTER COUNTY
    55  93 SBD    Dec-13-83 G FL         8.00 AL         14.60 BETWEEN GENEVA AND GRACEVILLE IN GENEVA CY & HOLMES & JACKSON COUNTIES
    55  97 SBD    Feb-29-84 G FL         7.20                  BET ST.PETERSBURG AND JUNGLE IN PINELLAS COUNTY
XN  55 100 SBD    Dec-01-83 G FL         1.10                  PALATKA, PUTNAM COUNTY
    55 102 SBD    Mar-01-84 G FL         5.97                  BETWEEN WILLISTON AND MONTBROOK IN LEVY COUNTY
XN  55 103 SBD    Feb-13-84 G FL        20.50                  BET DURANT AND WILLOW IN HILLSBOROUGH AND MANATEE COUNTIES
    55 105 SBD    Jul-03-84 G FL         7.36                  BETWEEN BUDA AND CRAGGS IN ALACHUA AND GILCHRIST COUNTIES
    55 108 SCL    Jun-21-84 G FL        21.99                  BET WAUCHULA AND ARCADIA IN DESOTO AND HARDEE COUNTIES
    55 120 SBD                FL          .00                  BETWEEN MATTOX AND HAINESWORTH IN NASSAU,BAKER,UNION AND ALACHUA

TOTAL CASES FROM  FLORIDA          9
TOTAL MILES GRANTED:      72.55
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                     TITLE
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XN 29    8 CGA   JUL-09-84 G GA        .95                 AT SAVANNAH, GEORGIA
   55   98 SBD   Jun-04-84 G GA      36.21                 BETWEEN ATHENS AND UNION POINT IN GREENE,OGLETHORPE & CLARKE COUNTIES
   55   99 SBD   Jan-22-85 G GA      29.12                 BET MACON AND MILLEDGEVILLE IN BIBB,JONES & BALDWIN WOUNTIES

TOTAL CASES FROM  GEORGIA                3
TOTAL MILES GRANTED:      65.08

XN  1 121 CNW    APR-23-84 G IA       1.30                 SACTON AND LAKEVIEW IN SACK COUNTY
    1 132 CNW    Apr-16-84 G IA       3.00                 BETWEEN BOONE AND ERICSON IN BOONE COUNTY
    1 150 CNW    Dec-16-83 G IA      44.00                 MARSHALLTOWN AND BONDURANT IN MARSHALL,JASPER AND POLK COUNTIES
    1 153 CNW    Oct-26-84 D IA        .00                 BET MAPLE RIVER AND IDA GROVE IN CARROLL,SAC AND IDA COUNTIES
XN  1 158 CNW    Mar-05-84 G IA       6.00                 BETWEEN GRAND JUNCTION AND RIPPEY IN GREENE COUNTY
    1 159 CNW    Sep-07-84 G IA      91.30 MO       59.20 BETWEEN DES MOINES, IOWA AND ST. JOSEPH, MISSOURI
    1 161 CNW    Dec-11-84 W IA        .00                 BET IOWA FALLS AND ELDORA IN HARDIN COUNTY
    1 162 CNW    May-01-84 G IA       5.70                 BETWEEN FORT DODGE(MISTLL YARD) AND TARA IN WEBSTER COUNTY
    1 169 CNW    Jan-15-85 G IA       6.10                 BETWEEN HUMBOLDT AND ROGERTON IN HUMBOLDT COUNTY
XN  1 171 CNW    Feb-09-84 G IA       1.70                 BETWEEN ANKENY AND DES MOINES IN POLK COUNTY
    6 220 BN     OCT-24-84 G IA       3.05                 BETWEEN RED OAK AND GRISWOLD IN MONTGOMERY,POTTAWATTAMIE,CASS
XN  6 221 BN     Aug-29-84 G IA        .42                 BETWEEN TALMADGE JUNCTION AND TALMADGE IIN UNION COUNTY
    7 110 MILW   Jul-19-84 W IA        .00                 BET MUSCATINE,IA & POLO,MO-ELDON & OTTUMWA, IA
   43 124 ICG    OCT-15-84 W IA        .00 MN              MONA JUNCTION AND ALBERT LEA

TOTAL CASES FROM  IOWA                   14
TOTAL MILES GRANTED:      168.57

    6 186 BN     Feb-24-84 G ID       2.73                 BETWEEN ATLAS AND COEUR D'ALENE IN KOOTENAI COUNTY
    6 202 BN     Sep-11-84 G ID      36.73                 BETWEEN MOSCOW AND ARROW IN LATAH AND NEZ PERCE
   36  19 OSL    Apr-10-84 G ID       6.90                 BOISE BRANCH BETWEEN BOISE AND BARBER IN ADA COUNTY
XP 36  21 UP     Sep-26-84 G ID        .12                 AT BOISE, ADA COUNTY, IDAHO

TOTAL CASES FROM  IDAHO                  4
TOTAL MILES GRANTED:      46.48

XP  1 167 CNW    AUG-25-84 G IL       3.80                 BETWEEN DE KALB AND SYCAMORE IN DE KALB COUNTY
XN  6 176 BN     Jan-06-84 G IL       1.00                 CAMBON IN FRANKLIN COUNTY
XN  6 177 BN     Jan-06-84 G IL       4.04                 BETWEEN LEWISTOWN AND FAIRVIEW IN FULTON COUNTY
    6 210 BN     Feb-05-85 G IL      47.10                 BETWEEN MENDOTA AND BENROCK IN LASALLE,BUREAU AND WHITESIDE COUNTIES
XN  6 216 BN     Aug-17-84 G IL       4.20                 BETWEEN QUINCY AND MARBLEHEAD IN ADAMS COUNTY
    7 107 MILW   Aug-07-84 G IL        .00                 CHICAGO TERMINAL DISTRICT COOK COUNTY, ILLINOIS
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                  TITLE
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     7 109 MILW   Nov-19-84 W IL          2.50                BET 8TH & 9TH STREETS AND 11TH & HARRISON AVENUES, IN ROCKFORD
XN  10  28 NW     SEP-10-84 W IL          0.00                IN THE VICINITY OF 82ND STREET AND NEAR 71ST ST. CHICAGO, ILLINOIS
XN  19  76 BO     JUN-25-84 W IL           .00                BOODY AND SANGAMON JCT IN MACON,CHRISTIAN,SANGAMON COUNTIES
    19  80 BO     Aug-07-84 G IL         40.92                DISCONTINUANCE OF SERVICE BETWEEN DECATUR AND SPRINGFIELD
XN  19  81 BO     Jul-06-84 G IL         32.34                PORTION DECATUT SUBDIV  BET BOODY & SANGAMON-SPRINGFIELD SUBDIV
    43 105 ICG    Jan-24-84 G IL          7.67                BETWEEN PYATTS AND VERGENNES IN PERRY AND JACKSON COUNTIES
XN  43 111 ICG    Apr-05-84 G IL          6.30                BETWEEN MAROA AND CLINTON IN MACON AND DEWITT COUNTIES
XN  43 112 ICG    Apr-20-84 G IL          4.00                BETWEEN SEYMOUR AND WHITE HEATH IN CHAMPAIGN AND PIATT COUNTIES
XP  43 113 ICG    Aug-21-84 G IL          1.44                PONTIAC, LIVINGSTON COUNTY
    43 116 ICG                IL           .00                BET LEAHY-CARBON LAKE/TEXAS JCT-CARBON LAKE/MURPHYSBORO-CARBONDALE
XN  43 118 ICG    Jun-27-84 G IL          1.62                IN THE VILLAGE OF DWIGHT, LIVINGSTON COUNTY
    43 119 ICG    Jul-24-84 G IL          1.22                BROOKPORT BRANCH IN METROPOLIS, MASSAC COUNTY
XP  43 120 ICG    Aug-27-84 G IL           .59                JACKSONVILLE, ILLINOIS
XN  52  31 ATSF   May-21-84 G IL          5.89                BETWEEN PEKIN AND CRANDALL TAZEWELL COUNTY
   167 642 CR     Aug-08-84 G IL         39.35                BETWEEN DEAN AND PEKIN IN TAZEWELL,PEORIA & MCLEAN COUNTIES
   167 733 CR     Jun-28-84 G IL          1.74                TERRE HAUTE-LENOX MAIN LINE IN PARIS, EDGAR COUNTY
   167 763 CR     Jul-13-84 G IL          1.04                HARTSDALE BRANCH, CHICAGO HGHTS, COOK COUNTY
   167 764 CR     AUG-16-84 G IL          5.60                BERNICE SECONDARY TRACK IN SOUTH CHICAGO, COOK COUNTY
   167 765 CR     NOV-15-84 G IL          9.50                BEVERLY SECONDARY AND WESTERN SECONDARY TRACKS, CHICAGO, COOK COUNTY
   167 769 CR     NOV-15-84 G IL          0.70                STOCKYARDS PARK MAINS TRACK IN CHICAGO, COOK COUNTY
   167 770 CR     NOV-15-84 G IL          0.60                NORTHWEST OF HALSTED ST. & 47TH ST.  TO N OF EXCHANGE AVE CHICAGO
   167 771 CR     Jul-13-84 G IL           .20                IRON ST LINE IN CHICAGO, COOK COUNTY
   167 772 CR     Aug-28-84 G IL           .70                RACINE AVENUE LINE IN CHICAGO, COOK COUNTY
   167 774 CR     Aug-08-84 G IL          1.70                40TH STREET BRANCH IN CHICAGO, COOK COUNTY
   167 787 CR     Aug-09-84 G IL          2.05                ENGLEWOOD CONNECTING LINE IN CHICAGO, COOK COUNTY
   167 788 CR     May-17-84 G IL          1.20                BET 18TH ST. AND WEST VAN BUREN ST.IN CHICAGO,COOK COUNTY
   167 789 CR     Aug-28-84 G IL           .70                BET W.VAN BUREN ST TO FULTON & CANAL STREETS, CHICAGO
   167 791 CR     NOV-15-84 G IL           .45                NORTH OF 43TH ST. TO JUNCTION WITH CAMPBELL AVE IN CHICAGO, COOK COUNT
   167 800 CR     Aug-28-84 G IL          5.30                BET GRANITE CITY AND EAST ST. LOUIS IN MADISON & ST.CLAIR
   167 802 CR     Jun-08-84   IL           .60                HORN TRACK IN WOOD RIVER ST. CLAIR COUNTY
   167 803 CR     Jun-28-84 G IL           .30                WESTERN AVE SECONDARY TRACK IN CHICAGO, COOK COUNTY
   167 804 CR     JUN-16-84 G IL           .32                CARROLL AVENUE RUNNING TRACK IN CHICAGO, COOK COUNTY
   167 839 CR     Jul-13-8  G IL           .40                BET LAKE AND FUTLEBN SREET IN CHICAGO, COOK COUNTY
   167 840 CR     Jul-13- 4 G IL          1.00                [illegible]OR & S.ROCKWELL-LAKE & FULTON IN CHICAGO
   167 845 CR     Jul-02-84 G IL          3.90                103RD & INDIANAPOLIS AVE AND 132ND ST AT GREEN BAY AVE IN CHICAGO, COO
   167 846 CR     Jul-13-84 G IL          2.18                SOUTH CHICAGO & SOUTHERN BRANCH TRACK IN [illegible]NSING,COO[illegible]UN
XN 167 898 CR     Nov-30-83 G IL          1.00                KANKAKEE BRANCH BET MO[illegible]NTS AND HOWE IN [illegible]EAU AND [illegible]AM COUN[illegible]ES
XN  43 110 ICG    APR-11-84 G IL          4.50                FARMERSVILLE AND WAGGONER, IL

TOTAL CASES FROM  ILLINOIS          45
TOTAL MILES GRANTED:        231.48


    19  91 BO     Nov-30-84 G IN         11.82                BETWEEN NABB AND CHARLESTOWN IN SCOTT AND CLARK COUNTIES
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DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
XP43	115	ICG	Sep-10-84	G	IN	.30			IN EVANSVILLE, INDIANA
55	94	SBD			IN	.00			BET DELPHI & INDIANAPOLIS IN BOONE,CARROLL,CLINTON,HAMILTON,&MARION
167	510	CR	Jan-16-84	G	IN	5.30			LIMEDALE SECONDARY TRACK FROM GREENCASTLE TO LIMEDALE-WEST SIDE,PUTNAM
167	511	CR	Jan-16-84	G	IN	10.50			BICKNELL SECONDARY TRACK FROM SANDBORN TO BICKNELL,KNOX COUNTY
167	512	CR	Mar-15-84	G	IN	.50			ROLLING MILL INDUUSTRIAL TRACK AT INDIANAPOLIS,MARION COUNTY
167	514	CR	Apr-05-84	G	IN	1.00			PLYMOUTH SECONDARY TRACK AT SOUTH BEND IN ST.JOSEPH COUNTY
167	520	CR	Nov-26-84	G	IN	2.43			ZIONSVILLE SECONDARY TRACK IN BOONE COUNTY, INDIANA
167	522	CR	Apr-05-84	G	IN	1.09			MUNCIE RUNNING TRACK IN MUNCIE DELAWARE COUNTY
167	527	CR	Apr-05-84	G	IN	1.60			NEW ALBANY RUNNING TRACK BET JEFFERSONVILLE & CLARKSVILLE IN CLARK COU
167	529	CR	Apr-23-84	G	IN	7.60			LOGANSPORT SECONDARY TRACK BETWEEN CROWN POINT AND SCHERERVILLE, LAKE C
167	530	CR	Nov-29-84	G	IN	1.33			N.MANCHESTER INDUSTRIAL TRACK IN N.MANCHESTER, WABASH COUNTY
167	584	CR	May-25-84	G	IN	.60			WORTHINGTON SECONDARY TRACK IN WORTHINGTON,GREENE COUNTY
167	585	CR	Jun-28-84	G	IN	.90			GR&I SECONDARY TRACK AT KENDALLVILLE IN NOBLE COUNTY
167	586	CR	Jun-28-84	G	IN	.70			NORTH STREET INDUSTRIAL TRACK IN INDIANAPOLIS, MARION COUNTY
167	589	CR	May-29-84	G	IN	.60			APEX LEAD TRACK IN ANDERSON, MADISON COUNTY
167	597	CR	Aug-17-84	G	IN	1.28			NORTH COLUMBUS RUNNING TRACK IN COLUMBUS,BARTHOLOMEW COUNTY
167	603	CR	Jun-08-84	G	IN	.20			CAVEN INDUSTRIAL TRACK IN INDIANAPOLIS, MARION COUNTY
167	609	CR	Jul-02-84	G	IN	.90			S. COLUMBUS RUNNING TRACK IN COLUMBUS, BARTHOLOMEW COUNTY
167	618	CR	Aug-29-84	G	IN	1.20			LOGANSPORT SECONDARY TRACK IN WINAMAC PULASKI COUNTY
167	630	CR	Jun-08-84	G	IN	.70			CAVEN INDUS TRACK GEN MOTORS ALLISON PLANT IN INDIANAPOLIS,MARION COUN
167	633	CR	May-25-84	G	IN	.03			PLYMOUTH INDUSTRIAL TRACK IN PLYMOUTH, MARSHALL COUNTY
167	636	CR	Jun-08-84	G	IN	2.00			VIGO RUNNING TRACK IN PRESTON VIGO COUNTY
167	644	CR	Jul-02-84	G	IN	1.63			PORTION RIDGEVILLE & FT.WAYNE SECONDARY TRACKS IN DECATUR, ADAMS COUNT
167	645	CR	May-29-84	G	IN	.27			ATTERBURY LEAD TRACK IN EDINBURG, JOHNSON AND BARTHOLOMEW COUNTIES
167	646	CR	Jul-02-84	G	IN	1.25			IN RIDGEVILLE, RANDOLPH COUNTY
167	648	CR	Jul-02-84	G	IN	1.30			FRANKLIN INDUSTRIAL TRACK IN FRANKLIN, JOHNSON COUNTY
167	649	CR	May-14-84	G	IN	1.20			MACKSVILLE INDUSTRIAL TRACK IN WEST TERRE HAUTE,VIGO COUNTY
167	651	CR	JUL-19-84	G	IN	2.40			PLYMOUTH INDUSTRIIAL TRACK IN PLYMOUTH, MARSHALL COUNTY
167	668	CR	Jul-02-84	G	IN	.90			PENDLETON-OLD LINE IN PENDLETON, MADISON COUNTY
167	672	CR	Aug-28-84	G	IN	3.20	MI	3.20	SOUTH BEND TRACK IN BERRIEN COUNTY,MI AND ST.JOSEPH COUNTY
167	678	CR	May-02-84	G	IN	.35			SHIPSHEWANNA BRANCH IN GOSHEN ELKHART COUNTY
167	679	CR	Jul-02-84	G	IN	1.40			N. ST INDUS TRACK AT INDIANAPOLIS, MARION COUNTY
167	681	CR	Jun-28-84	G	IN	.44			CHASE BAG LEAD TRACK AT GOSHEN IN ELKHART COUNTY
167	682	CR	Aug-29-84	G	IN	.60			GOSHEN INDUSTRIAL TRACK AT GOSHEN, ELKHART COUNTY
167	701	CR	Jun-08-84	G	IN	2.80			LAFAYETTE BRANCH IN LAFAYAETTE TIPPECANOE COUNTY
167	702	CR			IN	.00			SHELBYVILLE, SHELBY COUNTY
167	703	CR	Jul-13-84	G	IN	1.78			SHELBYVILLE SECONDARY TRACK IN SHELBY COUNTY
167	739	CR	Oct-01-84	G	IN	1.20			GREENCASTLE OLD LINE IN GREENCASTLE, PUTNAM COUNTY
167	757	CR	Oct-01-84	G	IN	32.60			LIMEDALE SEC T.-STAUNTON B.-BRAZIL INDU T.IN PUTNAM,CLAY,VIGO
167	759	CR	Jul-13-84	G	IN	.90			N.STREET INDUSTRIAL TRACK AT INDIANAPOLIS, MARION COUNTY
167	760	CR	Aug-28-84	G	IN	.80			LOGANSPORT SEC TRACK AT SCHERERVILLE, LAKE COUNTY
167	775	CR	Aug-09-84	G	IN	1.80			THE PRR BELT LINE AT ANDERSON,MADISON COUNTY
167	776	CR	Aug-16-84	G	IN	.70			E&W SECONDARY ITRACK AT MISHAWAKA, ST. JOSEPH COUNTY
167	777	CR	Jul-13-84	G	IN	1.50			WESTFIELD SEC TRACK AT ANDERSON, MADISON COUNTY

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                                                                                    TITLE
DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT  .................................................................
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   167 778 CR     Jul-13-84 G IN              .41                 LOUISIANA ST. SPUR IN INDIANAPOLIS, MARION COUNTY
   167 829 CR     Jul-02-84 G IN             2.70                 FURNACE CREEK BRANCH AT BRAZEL,CLAY COUNTY
   167 830 CR     Aug-28-84 G IN              .38                 HULMAN LEAD TRACK NEAR CHESTNUT STREET IN TERRE HAUTE, VIGO COUNTY
   167 843 CR     Aug-28-84 G IN             2.70                 INDIAN CREEK SECONDARY AT ANDERSON, MADISON COUNTY
   167 844 CR     Aug-28-84 G IN              .62                 BETWEEN MUNSTER AND LANSING IN LAKE COUNTY
   167 855 CR     Jul-13-84 G IN            29.39                 BET SWEETSER AND ANOKA IN MAMI,CASS AND GRANT COUNTIES
   167 856 CR     Oct-01-84 G IN             -.76                 KOKOMO SECONDARY TRACK IN KOKOMO, HOWARD COUNTY
   167 857 CR     Jul-02-84 G IN             1.29                 N. COLUMBUS RUNNING TRACK AT COLUMBUS, BARTHOLOMEU COUNTY
   167 858 CR     May-17-84 G IN              .30                 NORTH MARION BELT BET CHARLES ST.AND MERIDIAN ST.IN MARION GRANT COUNT
   167 870 CR     Nov-15-84 G IN             3.70                 SOUTH CHICAGO & SOUTHERN BRANCH IN LAKE COUNTY
   167 871 CR     Jul-02-84 G IN              .60                 WATERLOO INDUSTRIAL TRACK IN WATERLOO, DEKALB COUNTY
   167 872 CR     Jul-02-84 G IN              .80                 LAFAYETTE, TIPPECANO COUNTY,
   167 873 CR     Oct-09-84 W IN  SALE        .00                 LOGANSPORT INDUSTRIAL TRACK, CASS COUNTY
   167 880 CR     Jul-13-84 G IN             2.10                 KENTUCKY AVE INDUS TRACK IN INDIANAPOLIS, MARION COUNTY

 TOTAL CASES FROM  INDIANA            59
 TOTAL MILES GRANTED:        157.35

      3  40 MP    Jan-24-85 G KS            39.30 NE       45.10 BET HASTINGS JCT & MURIEL IN CLOUD,REPUBLIC,KS NUCKOLLS,WEBSTER,ADAMS,
  XP  3  45 MP    Sep-25-84 G KS            13.70                BETWEEN GENESEO AND KANOPOLIS IN ELLSWORTH AND RICE COUNTIES
  XM  6 204 BN    JUN-26-84 G KS            12.48                BETWEEN MERTZ AND MULBERRY IN CRAWFORD COUNTY
      6 208 BN    Dec-12-84 G KS            57.26                BETWEEN MEDORA AND ELLSWORTH IN RENO, RICE AND ELLSWORTH COUNTIES
  XM 33  24 UP    Feb-13-84 G KS              .12                PORTION PLAINVILLE BRANCH AT COLBY, THOMAS COUNTY
  XM 39   6 SSW   Nov-15-83 G KS            23.59                MILE POST 351.00 AND 374.59 DODGE CITY BRANCH IN FORD COUNTY
     52  26 ATSF  Mar-26-84 D KS            16.49                BETWEEN ANTHONY AND METCALF IN SUMMER AND HARPER COUNTIES

 TOTAL CASES FROM  KANSAS              7
 TOTAL MILES GRANTED:        162.94

     18  53 CO                  KY           .00                 BETWEEN COALTON AND WINCHESTER IN BOYD,CARTER,ROWAN,MONTGOMERY,CLARK C
     43 106 ICG   MAR-21-84 DS  KY           -.00                BETWEEN PRINCETON AND HOPKINSVILLE IN CALDWELL,TRIGG & CHRISTIAN COUNT
  XP 43 117 ICG   Sep-20-84 G KY            1.25                 NEAR KENTUCKY AVENUE AND PIRTLE IN LOUISVILLE, KENTUCKY
  XM 55 112 SBD   Jun-28-84 G KY            1.27                 AT DEANE, LETCHER COUNTY, KENTUCKY
  XP 55 113 SBD   Sep-25-84 G KY             .50                 PORTION PUCKETT'S CREEK BRANCH NEAR ALVA, HARLAN COUNTY
  XP 55 114 SBD   Jul-03-84 G KY             .05                 PORTION C & M BRANCH NEAR LEVI CLAY COUNTY
  XP 55 115 SBD   Jul-20-84 G KY            2.07                 PORTION MONTGOMERY CREEK BRANCH PERRY COUNTY
     55 118 SBD   Nov-15-84 G KY           20.90                 BETWEEN OWENSBORO AND LIVERMORE IN DAVIESS AND MCLEAN COUNTIES

 TOTAL CASES FROM  KENTUCKY            9
 TOTAL MILES GRANTED:         26.04
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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     3  39 MP     Jun-20-84 G LA         22.90                BET DOW CHEMICAL  AND THIBODAUX IN ASSUMPTION & LAFOURCHE
XP  12  70 SP     Nov-09-83 G LA          3.59                BETWEEN STERLING JUNCTION AND CAFFERY IN ST. MARY PARISH
XN  12  71 SP     Nov-06-83 G LA          1.06                THIBODAUX BRANCH IN LA FOURCHE PARISH
    43 107 ICG    Feb-01-84 G LA          2.40                BETWEEN FRONT STREET AND LOUISIANA AVE IN N.ORLEANS,ORLEANS PARISH
    43 108 ICG    Jan-30-84 G LA           .54                NEAR CARROLLTON AVE AND JEFFERSON DAVIS PARKWAY IN N.ORLEANS ORLEANS P
XP  43 114 ICG    JUN-21-84 G LA          7.10                WEST OF ZEE TO NEAR ST. FRANCISVILLE IN WEST FELLICIANA PARISH
XP  43 122 ICG    Aug-09-84 G LA          1.60                NEAR ZEE, WEST FELICIANA PARISH
    43 123 ICG                LA           .00 MS             BET CROSBY, IN AMITE & WILKINSON COUNTIES,MS & SLAGHTER, IN EAST FELIC


TOTAL CASES FROM  LOUISIANA        8
TOTAL MILES GRANTED:      39.19


XN  32  27 BM     Dec-13-83 G MA           .20                WATERTOWN BRANCH IN WATERTOWN,MIDDLESEX COUNTY


TOTAL CASES FROM  MASSACHUSETT     1
TOTAL MILES GRANTED:        .20


    19  71 BO     Jul-09-84 G MD           .32                IN BALTIMORE, MARYLAND
XN  19  72 BO     May-23-84 G MD           .17                PATUXENT BRANCH AT SAVAGE, HOWARD COUNTY
    19  77 BO     Jul-19-84 G MD           .55                PORTION HIGHLANDTOWN BRANCH IN BALTIMORE
XP  19  78 BO     Jun-29-84 G MD           .24                PORTION ANTIETAM BRANCH NEAR HAGERSTOWN IN WASHINGTON COUNTY
XN  19  79 BO     Aug-10-84 G MD           .46                PORTION ANTIETAM BRANCH IN WASHINGTON COUNTY
XN  19  84 BO     Aug-31-84 G MD           .00                DISCONTINUE SERVICE NEAR FROSTBURG, ALLEGANY COUNTY
    69  15 WM     Jul-09-79 G MD           .32                IN BALTIMORE,MARYLAND
XN  69  16 WM     Aug-31-84 G MD          1.34                FROSTBURG SUBDIV NEAR FROSTBURG, ALLEGANY COUNTY, MD


TOTAL CASES FROM  MARYLAND         8
TOTAL MILES GRANTED:       3.40


    77   4 BAR    APR-27-84 G ME         17.93                BETWEEN BRIDGEWATER AND PHAIR IN  AROOSTOOK COUNTY
XP  93   5 MEC    Jun-21-84 G ME           .84                SOUTHERLY SIDELINE OF TODD STREET IN CITY OF CALAIS,WASHINGTON COUNTY
XP  93   6 MEC    OCT-18-84 G ME           .55                SEGMENT LEWISTON LOWER BRANCH IN LEWISTOWN, ANDROSCOGGIN COUNTY


TOTAL CASES FROM  MAINE            3
TOTAL MILES GRANTED:      13.72
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DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
XP 4	3	CLK	Aug-21-84	G	MI	4.50			BET MISSAUKEE JCT. , IN WEXFORD COUNTY AND ROUND LAKE JCT., IN MISSAUK
XP 10	29	NW	Oct-02-84	G	MI	9.00			BETWEEN ADRIAN AND TECUMSEH IN BELMONT COUNTY
18	51	CO	Apr-26-84	G	MI	13.29			BET HARTFORD AND PAW PAW IN VAN BUREN COUNTY
XN 18	52	CO	Dec-09-83	G	MI	.90			PORTION PORT HURON SUBDIVISION IN ST. CLAIR COUNTY
XN 18	54	CO	May-31-84	G	MI	.45			SUPERIOR STREET SPUR IN SAGINAW, SAGINAW COUNTY
18	56	CO	Aug-06-84	G	MI	8.11			BETWEEN GRAND LEDGE AND PORTLAND IN CLINTON AND IONIA COUNTIES
XN 18	59	CO	Aug-14-84	G	MI	2.12			IN SAGINAW, SAGINAW COUNTY
XN 18	61	CO	OCT-01-84	G	MI	.82			BREWSTER SPUR IN SAGINAW COUNTY
XP 18	63	CO	OCT-30-84	G	MI	.50			WINKLER-LUCAS SPUR IN SAGINAW, SAGINAW COUNTY, MI
31	18	GTW	Feb-01-84	G	MI	9.60			BETWEEN WIXOM AND SOUTH LUON IN OAKLAND COUNTY
31	19	GTW	Aug-29-84	G	MI	9.93			BETWEEN WIXOM AND MAL JUNCTION IN OAKLAND COUNTY
XN 31	20	GTW	Sep-13-84	G	MI	4.00			PORTION MICH CENTRAL MACKINAW BRANCH IN BAY COUNTY
167	515	CR	Apr-17-84	G	MI	30.28			BETWEEN STURGIS AND QUINCY IN BRANCH AND ST.JOSEPH COUNTIES
167	516	CR	Apr-06-84	G	MI	.70			GODFREY MILL SPUR IN GRAND RAPIDS IN KENT COUNTY
167	517	CR	Apr-05-84	G	MI	.44			HASTINGS RUNNING TRACK IN GRAND RAPIDS KENT COUNTY
167	518	CR	Apr-18-84	G	MI	.27			PORTION GRAND RAPIDS BELT LINE IN GRAND RAPIDS, KENT COUNTY
167	519	CR	Apr-23-84	G	MI	.90			S.A. MORMAN LEAD TRACK IN GRAND RAPIDS,KENT COUNTY
167	521	CR	Apr-05-84	G	MI	.59			PLAINWELL INDUSTRIAL TRACK IN PLAINWELL ALLEGAN COUNTY
167	524	CR	Apr-23-84	G	MI	2.10			PLASTER MILL SPUR IN GRAND RAPIDS, KENT COUNTY
167	525	CR	May-10-84	G	MI	1.94			KALAMAZOO INDUSTRIAL TRACK IN GRAND RAPIDS,KENT COUNTY
167	526	CR	Apr-05-84	G	MI	.66			THE PLASTER MILL SPUR IN GRAND RAPIDS IN KENT COUNTY
167	587	CR	May-14-84	G	MI	1.37			MACKINAW BRANCH BETWEEN PACKARD AND RAYS IN MACOMB COUNTY
167	599	CR	May-14-84	G	MI	1.00			OLD AIRLINE BRANCH IN THREE RIVERS,ST.JOSEPH COUNTY
167	601	CR	May-15-84	G	MI	1.10			THE CK&S--SOUTH LINE IN KALAMAZOO, KALAMAZOO COUNTY
167	602	CR	May-14-84	G	MI	2.07			SOUTH HAVEN INDUSTRIAL TRACK IN KALAMAZOO, KALAMAZOO COUNTY
167	604	CR	Jun-28-84	G	MI	1.13			OLD MICHIGAN RY IN BATTLE CREEK, CALHOUN COUNTY
167	605	CR	May-25-84	G	MI	.97			MOSCOW BRANCH IN BATTLE CREEK IN CALHOUN COUNTY
167	606	CR	May-25-84	G	MI	.90			DT&M YARD TRACK IN MARSHALL, CALHOUN COUNTY
167	607	CR	Jun-28-84	G	MI	.92			FORT WAYNE BRANCH IN JACKSON, JACKSON COUNTY
167	608	CR	Jun-28-84	G	MI	.82			RAMS HORN BRANCH IN JACKSON, JACKSON COUNTY
167	619	CR	Jun-11-84	G	MI	.32			SALINE BRANCH IN YPSILANTI,WASHTENAW COUNTY
167	708	CR	May-25-84	G	MI	.73			JACKSON BELT IN JACKSON, JACKSON COUNTY
167	805	CR	May-25-84	G	MI	.55			BACKUS LEAD (AKA BELDEN BRICK LEAD) IN DETROIT,WAYNE COUNTY
167	806	CR	Jun-28-84	G	MI	.20			BRYANT BRANCH AT DETROIT, WAYNE COUNTY
167	807	CR	Jul-13-84	G	MI	.62			DETROIT BELT LINE AT DETROIT IN WAYNE COUNTY
167	808	CR	NOV-15-84	G	MI	.90			FARM LEAD TRACK SERVING NATIONWIDE PAPER CO., DETROIT, WAYNE COUNTY
167	809	CR	Jun-13-84	G	MI	.27			HIGHLAND PARK LUMBER LEAD IN HIGHLAND PARK, DETROIT, WAYNE COUNTY
167	810	CR	Jun-28-84	G	MI	.20			MICHIGAN POPCORN LEAD AT DETROIT, WAYNE COUNTY
167	811	CR	Jun-28-84	G	MI	.21			RADER LUMBER LEAD AT DETROIT,WAYNE COUNTY
167	812	CR	Jun-13-84	G	MI	.20			SCHAEFER SPUR AT DEARBORN TO HIGHLAND PARK BRANCH,WAYNE COUNTY
167	813	CR	Jul-02-84	G	MI	.15			SCHULTZ SPUR AT DETROIT, WAYNE COUNTY
167	814	CR	Jul-02-84	G	MI	.93			SUPERIOR LEAD AT DETROIT, WAYNE COUNTY
167	815	CR	JUL-09-84	G	MI	.65			TERMINAL INDUSTRIAL TRACK IN DEARBORN, WAYNE COUNTY
167	816	CR	Jul-19-84	G	MI	3.90			BETWEEN DETROIT AND DEARBORN IN WAYNE COUNTY,MICHIGAN

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DOCKET SUP ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                              TITLE
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     167 817 CR     Jul-02-84 G MI          .60                            TERMINAL INDUSTRIAL TRACK AT DETROIT, WAYNE COUNTY
     167 818 CR     Jul-13-84 G MI          .16                            TERM INDUS TRACK AT DETROIT RIVER IN DETROIT, WAYNE COUNTY
     167 834 CR     Jul-09-84 G MI         2.30                            VULCAN SECD TRACK AT OTTAWA LAKE, MONROE COUNTY
     167 835 CR     May-18-84 G MI          .60                            OAKMAN SPUR BET MILLER RD & WYOMING AVE IN DEARBORN,WAYNE COUNTY
     167 891 CR     Jul-02-84 G MI          .95                            CLARK EQUIPMENT LEAD TRACK IN BUCHANAN TOWNSHIP, BERRIEN COUNTY
     167 892 CR     Jul-02-84 G MI          .70                            CABINET TRACK IN BUCHANAN TOWNSHIP, BERRIEN COUNTY

TOTAL CASES FROM  MICHIGAN           50
TOTAL MILES GRANTED:     126.41


       1 166 CNW    Sep-06-84 G MN        25.00                            BETWEEN MONTGOMERY AND WASECA IN LESUEUR AND WASECA COUNTIES
    XN 1 170 CNW    May-10-84 G MN        14.77                            BET ROSEPORT AND RANDOLPH IN DAKOTA COUNTY
       6 132 BN     Dec-05-83 G MN         2.26                            BETWEEN ST. CLAIR JUNCTION AND CHRISHOLM IN ST. LOUIS COUNTY
       6 170 BN     Nov-28-83 G MN        34.42                            NEAR WADENA AND PARK RAPIDS IN WADENA AND HUBBARD COUNTIES
       6 173 BN     Dec-29-83 G MN        18.72                            NEAR ELK RIVER AND NEAR PRINCETON IN SHERBURNE AND MILLE LACS COUNTIES
    XN 6 178 BN     Jan-06-84 G MN          .87                            BETWEEN EMMERT JUNCTION AND ALBANY JUNCTION IN ST.LOUIS COUNTY
    XN 6 179 BN     Jan-06-84 G MN          .69                            BETWEEN KELLY LAKE AND SO. AGNEW IN ST.LOUIS COUNTY
    XN 6 180 BN     Jan-06-84 G MN         1.17                            MAHONING SPUR LINE IN ST.LOUIS COUNTY
    XN 6 181 BN     Jan-06-84 G MN          .73                            BETWEEN PERRY AND WYMAN IN ITASCA COUNTY
    XN 6 182 BN     Jan-06-84 G MN          .50                            MISSISSIPPI GROUP SPUR IN ITASCA COUNTY
    XN 6 183 BN     Jan-06-84 G MN         2.24                            BETWEEN VIRGINIA AND WACOOTAH SIDING IN ST.LOUIS COUNTY
    XN 6 191 BN     Jan-06-84 G MN         1.32                            MESABI CHIEF SPUR IN ITASCA COUNTY
    XN 6 192 BN     Jan-06-84 G MN        10.55                            BETWEEN DORMER JCT. AND EMMERT JCT, IN ST. LOIUS
    XN 6 215 BN     Aug-14-84 G MN         4.65                            BETWEEN CARLTON AND WRENSHALL IN CARLTON COUNTY
    XN 6 225 BN     Oct-10-84 G MN         4.49                            BETWEEN SHERWOOD AND BUHL IN ST. LOUIS COUNTY

TOTAL CASES FROM  MINNESOTA          15
TOTAL MILES GRANTED:        120.38

       6 198 BN     May-04-84 G MO        11.05                            BETWEEN AURORA AND MT. VERNON IN LAWRENCE COUNTY
       6 203 BN     Jul-03-84 G MO        26.63                            BET LEAD JUNCTION AND SALEM, IN CRAWFORD AND DENT COUNTIES
       6 213 BN     Oct-18-84 G MO        91.82                            BET LACLEDE AND ST.JOSEPH IN LINN,BUCHANAN,CLINTON,DEKALK,CALDWELL
    XN 6 224 BN     Oct-09-84 G MO          .72                            BETWEEN WEBB CITY AND RED PLANT IN JASPER COUNTY
      39   5 SSRC   Jan-16-84 G MO        17.50                            BET EAST PRAIRIE AND LILIBOURN IN MISSISSIPPI & NEW MADRID COUNTIES

TOTAL CASES FROM  MISSOURI            5
TOTAL MILES GRANTED:     147.72
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DOCKET SUB ROAD1 RECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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XN  3  44 MP    Sep-24-84 D MS       .00         BETWEEN NATCHEZ, MISSISSIPPI AND VIDALIA, LOUISI
   43 133 ICG               MS       .00         BET CROSBY  AND SLAUGHTER IN AMITE AND WILKINSON COUNTIES, MS AND EAST
   43 102 ICG   Jan-12-84 G MS     28.40         BETWEEN CLARK AND LULA IN TUNICA COUNTY
   43 103 ICG   Mar-02-84 G MS     33.40         ROLLING FORK AND REDWOOD JUNCTION IN ISSAQUENA,SHARKEY & WARREN COUNTI
   43 104 ICG   Jan-30-84 G MS     21.15         NEAR VICKSBURG AND PORT GIBSON IN WARREN AND CLAIBORNE COUNTIES
XP 43 121 ICG               MS       .00         BETWEEN BECKVILLE AND [illegible], MISSISSIPPI

TOTAL CASES FROM  MISSISSIPPI      6
TOTAL MILES GRANTED:      82.95


    6 175 BN    Jul-26-84 G MT     66.12         BETWEEN SPRING CREEN JUNCTION & GERALDINE IN FERGUS;JUDITH BASIN ETC
   34  20 UP    JUN-29-84 G MT      7.55         BETWEEN SILVER BOW AND BUTTE IN SILVER BOW COUNTY

TOTAL CASES FROM  MONTANA          2
TOTAL MILES GRANTED:      73.67


XN 26  28 SOU   Sep-27-84 G NC       .30         AT TROUTMAN, NORTH CAROLINA
   55  89 SBD   Mar-26-84 G NC     28.97         BETWEEN ROANOKE RAPIDS AND NORLINA IN HALIFAX AND WARREN COUNTIES
   55  91 SBD   Mar-20-84 G NC     12.54         BETWEEN PARKTON AND RED SPRINGS IN ROBESON COUNTY

TOTAL CASES FROM  NORTH CAROLI     3
TOTAL MILES GRANTED:      41.81

XN  6 212 BN    AUG-01-84 G N       7.58         BETWEEN LORAIN AND SHERWOOD IN RENVILLE COUNTY
XN  6 190 BN    Jan-06-84 G ND     12.87         BETWEEN BEACH AND GOLVA IN GOLDEN VALLEY COUNTY
XN  6 193 BN    Jan-16-84 G ND      6.66         BETWEEN TRUAX AND TRUAX JUNCTION IN MERCER COUNTY
XN  6 199 BN    Feb-21-84 G ND     11.51         BETWEEN REGAN AND WILTON IN BURLEIGH COUNTY
XP 57  12 SOO   Oct-16-84 G ND     20.00         BETWEEN EGELAND AND ARMOURDALE IN TOWNER COUNTY

TOTAL CASES FROM  NORTH DAKOTA     5
TOTAL MILES GRANTED:      58.62

    1 131 CNW   Dec-31-84 G NE      5.60         BETWEEN OMAHA AND FLORENCE, IN DOUGLAS COUNTY
XN  3  42 MP    Jul-09-84 G NE     16.70         BETWEEN LOUISVILLE AND OMAHA IN SARPY AND DOUGLAS COUNTIES
    3  43 MP    Aug-09-84 D NE       .00         BET CRETE JCT. AND HICKMAN IN NEMAHA,OTOE,JOHNSON AND LANCASTER COUNTI
    6 172 BN    Feb-15-84 G NE      6.14         BETWEEN BELLWOOD AND COLUMBUS IN BUTLER AND PLATTE COUNTIES
XN  6 184 BN    Mar-16-84 W NE       .00         BETWEEN SUTTON AND LUSHTON IN CLAY,YORK AND FILLMORE COUNTIES
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                TITLE
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XN 6 189 BN    Jan-06-84 G NE        5.84                  BETWEEN MILLIGAN AND TOBIAS IN FILLMORE AND SALINE COUNTIES
   6 195 BN    Mar-09-84 G NE        7.16                  BETWEEN YORK AND MCCOOL JUNCTION IN YORK COUNTY
   6 206 BN    Oct-02-84 G NE        9.42                  BETWEEN JOHNSON  AND  AUBURN IN NEMAHA COUNTY
   6 217 BN    NOV-06-84 G NE       35.20                  BETWEEN ROSELAND AND WILCOX IN ADAMS, KEARNEY AND PHELPS COUNTIES
XN 33  23 UP   Jan-03-84 G NE        1.37                  SCOTIA BRANCH IN GREELEY COUNTY
XP 33  25 UP   Oct-18-84 G NE       39.40                  LOUP CITY BRANCH BETWEEN ST.PAUL AND LOUP CITY IN HOWARD AND SHERMAN C

TOTAL CASES FROM  NEBRASKA         11
TOTAL MILES GRANTED:      126.93

XN 32  28 BM   JAN-16-84 G NH         .98                  CHESHIRE COUNTY, NH
XN 32  29 BM   JAN-17-84 G NH        1.13                  CITY OF CONCORD
   32  30 BM   May-11-84 G NH       12.07 MA          8.55 S. ASHBURNHAM, WORCESTER COUNTY, MA & JAFFREY, CHESHIRE COUNTY, NH
   32  31 BM   DEC-12-84 DS NH        .00                  BET DERRY AND LONDONDERRY  IN COUNTY OF ROCKINGHAM, N.H.

TOTAL CASES FROM  NEW HAMPSHIR      4
TOTAL MILES GRANTED:      13.98

  167 611 CR   Jul-26-84 G NJ       10.70                  BET WINSLOW JCT AND LANDISVILLE, IN CAMDEN ETC
  167 612 CR   May-14-84 G NJ         .70                  MONMOUTH PARK SPUR IN MONMOUTH PARK,MONMOUTH COUNT
  167 613 CR   Jul-13-84 G NJ         .20                  AMERICAN BRIDGE TRACK IN TRENTON, MERCER COUNTY
  167 614 CR   Jul-13-84 G NJ        1.10                  BEL-DEL  BRANCH IN TRENTON, MERCER COUNTY
  167 615 CR   May-14-84 G NJ         .70                  LAFAYETTE INDUSTRIALTRACK IN JERSEY CITY, HUDSON COUNTY
  167 616 CR   May-15-84 G NJ         .70                  LINDEN INDUSTRIAL TRACK IN LINDEN, UNION COUNTY
  167 617 CR   May-14-84 G NJ         .60                  CAVEN POINT TRACK IN JERSEY CITY, HUDSON COUNTY
  167 620 CR   Sep-04-84 G NJ       27.60 + 11.7 SOLD      HUDSON SEC TRACK & OGENSBURG INDUST TRACK IN WARREN & SUSSEX COUNTIES
  167 628 CR   May-25-84 G NJ         .40                  LAKE HOPATCONG BRANCH IN ROXBURY, MORRIS COUNTY
  167 635 CR   Nov-15-84 G NJ       18.64                  SALEM SECONDARY TRACK BET WOOLWICH & MANNINGTON TOWNSHIP
  167 643 CR   May-14-84 G NJ         .50                  OLD PEMBERTON SECONDARY TRACK IN MERCHANTVILLE,CAMDEN COUNTY
  167 652 CR   Sep-27-84 G NJ        7.74 + 2.46 SOLD      THREE BRANCH LINES IN MORRIS COUNTY
  167 704 CR   Nov-16-84 G NJ        2.80                  WEST SIDE BRANCH AND WEST SIDE CONNECTION IN HUDSON COUNTY
  167 734 CR   Aug-06-84 G NJ       17.00                  BET GLASSBORO AND DEERFIELD IN GLOUCESTER,SALEM & CUMBERLAND
  167 735 CR   Jul-13-84 G NJ         .47                  S & K BRANCH IN JERSEY CITY, HUDSON COUNTY
  167 738 CR   Aug-08-84 G NJ         .30                  GOLDENBERG INDUS TRACK IN JERSEY CITY, HUDSON COUNTY
  167 741 CR   Nov-29-84 W NJ         .00  13.1 SOLD       BETWEEN LAKEHURST AND WOODMANSIE IN BURLINGTON  AND OCEAN COUNTIES
  167 742 CR   Oct-01-84 G NJ         .40                  PASSAIC RIVER INDUSTRIAL TRACK IN NEWARK, ESSEX COUNTY
  167 743 CR   Aug-06-84 G NJ         .52                  PORTION 'AC'BRANCH IN GLOUCESTER CITY,CAMDEN COUNTY
  167 753 CR   Aug-09-84 G NJ        1.10                  BERGEN COUNTY BRANCH IN JERSEY CITY, HUDSON COUNTY
  167 754 CR   Nov-30-84 G NJ        1.14                  IN  CLIFTON, PASSAIC COUNTY
  167 755 CR   Aug-28-84 G NJ         .73                  RARITAN N. SHORE BRANCH IN PERTH AMBOY CITY, MIDDLESEX COUNTY
  167 782 CR   Nov-08-84 G NJ         .22                  TRACK SERVING CELOTEX CORPORATION IN PERTH AMBOY,MIDDLESEX
  167 832 CR   Jul-13-84 G NJ        1.27                  JERSEY CITY  #1 IN JERSEY CITY, HUDSON COUNTY
  167 852 CR   Jul-19-84 G NJ        3.60                  BET KEARNY AND FOREST HILLS IN HUDSON AND ESSEX COUNTIES
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DOCKET SUB ROAD1 DECI.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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   167 853 CR     Aug-09-84 G NJ           .70                    PINE STREET INDUS TRACK AT COOPER, CAMDEN COUNTY
   167 864 CR     Jul-13-84 G NJ          7.86                    RARITAN VALLEY LINE BET HIGH BRIDGE & BETHLEHEM, HUNTERTON
   167 865 CR     Aug-09-84 G NJ           .60                    PENNSYLVANIA CONNECTING BRANCH IN SAYREVILLE,MIDDLESEX COUNTY
   167 866 CR     Aug-06-84 G NJ           .30                    E.BANK OF PASSAIC RIVER TO N.SIDE OF THIRD AVE IN NEWARK, ESSEX COUNTY
   167 869 CR     JUL 19 84 G NJ           .15                    BLOODGOOD BRANCH IN CLARK TOWNSHIP IN UNION COUNIXTY


TOTAL CASES FROM  NEW JERSEY       30
TOTAL MILES GRANTED:     108.74


 XN156  13 DH     Nov-02-83 G NY           .50                    PORTION OF TROY BRANCH IN COHOES, ALBANY COUNTY,NEW YORK
   167 493 CR     Oct-05-84 D NY           .00 1.45 SOLD          WEST 30TH STREET SECONDARY TRACK IN NEW YORK CITY
   167 534 CR     May-02-84 G NY           .25                    CROSS CUT BRANCH IN BUFFALO,ERIE COUNTY
   167 535 CR     May-03-84 G NY          1.00                    TONAWANDA BRANCH IN TONAWANDA ERIE COUNTY
   167 536 CR     MAY 18 84 G NY          1.50                    BET WEST SIDE OF FUHRMANN & LAKE ERIE HARBOR IN BUFFALO, ERIE COUNTY
   167 537 CR     May-02-84 G NY           .65                    BLACK ROCK HOLE TRACK IN BUFFALO ERIE COUNTY
   167 538 CR     Apr-23-84 G NY           .37                    BLACK ROCK HOLE TRACK EAST SIDE OF NIAGARA STREET IN BUFFALO,ERIE COUN
   167 539 CR     Apr-23-84 G NY           .40                    CITY BRANCH EAST SIDE OF MICHIGAN AVENUE IN BUFFALO,ERIE COUNTY
   167 540 CR     Apr-23-84 G NY           .46                    CITY BRANCH WEST OF PARK AVE IN BUFFALO, ERIE COUNTY
   167 541 CR     Jun-01-84 G NY          2.30                    INTERNATIONAL INDUSTRIAL TRACK IN BUFFALO ERIE COUNTY
   167 542 CR     JUN-14-84 G NY           .10                    CITY BRANCH IN BUFFALO, ERIE COUNTY
   167 543 CR     Jun-11-84 G NY           .28                    BLACK ROCK BRANCH IN BUFFALO,ERIE COUNTY
   167 544 CR     Jul-02-84 G NY          2.32                    BLACK ROCK BRANCH BET MAIN STREET & DELAWARE AVE IN BUFFALO,ERIE COUNT
   167 545 CR     Jul-09-84 G NY          2.10                    BLACK ROCK BRANCH BET LOVEJOY ST & SCAJAQUADA CREEK BRIDGE IN BUFFALO
   167 546 CR     JUN-14-84 G NY          1.60                    CITY BRANCH IN BUFFALO, ERIE COUNTY
   167 547 CR     May-03-84 G NY          1.20                    MORTIMER SECONDARY TRACK IN BRIGHTON MONROE COUNTY
   167 548 CR     Jun-08-84 G NY          2.50                    OAKFIELD SECONDARY TRACK IN CHEEKTOWAGA ERIE COUNTY
   167 549 CR     Jun-08-84 G NY         22.10                    OAKFIELD SEC TRACK BETWEEN OAKFIELD & LANCASTER IN GENESEE & ERIE COUN
   167 550 CR     May-03-84 G NY           .80                    NIAGARA FALLS SECONDARY TRACK IN NORTH TONAWANDA IN NIAGARA &ERIE COUN
   167 551 CR     Jun-01-84 G NY           .79                    INTERNATIONAL INDUSTRIAL TRACK EAST OF L[illegible]WOOD AVE IN BUFFALO ERIE COU
   167 552 CR     May-31-84 G NY          5.20                    ROCHESTER TER TRACK & SECONDARY IN ROCHESTER & GATES IN MONROE COUNTY
   167 593 CR     Jun-08-84 G NY          1.48                    CLAVERACK INDUST TRACK BET GREENPORT & CLAVERACK IN COLUMBIA COUNTY
   167 594 CR     AUG-16-84 G NY          6.20                    BRADFORD BRANCH BET CARROLLTON AND LIMESTONE,CATTARAUGUS
   167 595 CR     May-02-84 G NY         10.40                    WATKINS GLEN SEC TRACK BET HORSEHEADS-MONTOUR FALLS SCHUYLER & CHEMUNG
   167 596 CR     May-02-84 G NY          2.00                    WATKINS GLEN SEC TRACK BET MONTOUR FALLS AND TOWN OF DIX IN SCHUYLER C
   167 666 CR     May-17-84 G NY          1.51                    BETWEEN ELMIRA AND SOUTHPORT IN CHEMUNG COUNTY
   167 667 CR     May-31-84 G NY          1.30                    EAST STREET SPUR IN OLEAN, CATTARAUGUS COUNTY
   167 669 CR     May-17-84 G NY           .96                    HARLEM SEC TRACK IN GHENT TO CHURCH ST. IN EAST CHATHAM,COLUMBIA COUNT
   167 671 CR     Jul-13-84 G NY          2.23                    OSWEGO INDUSTRIAL TRACK IN OSWEGO., OSWEGO COUNTY, N.Y.
   167 674 CR     Jun-01-84 G NY          1.23                    ONEIDA INDUSTRIAL TRACK IN ONEIDA, MADISON COUNTY
   167 751 CR     Jun-15-84 G NY          5.70 +4.1 SOLD          CALEDONIA SECONDRY & INDUSTRIAL TRACKS IN MONROE,LIVINGSTON,GENESEE CO
   167 769 CR     Jul-19-84 G NY          2.53                    SALTLAND SPUR IN SYRACUSE, ONONDAGA COUNTY
   167 820 CR     Jul-13-84 G NY          3.20                    BETWEEN WATERTOWN AND PAMILIA IN JEFFERSON COUNTY
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DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
167	822	CR	Jul-19-84	G	NY	1.88			BET DEWITT AND MANLIUS IN ONONDAGA COUNTY
167	823	CR	Jul-13-84	G	NY	1.55			BET N.SIDE OF ASH ST & S. SIDE OF SECOND ST SYRACUSE
167	824	CR	Aug-16-84	G	NY	1.96			PIERMONT BRANCH IN ORANGEETOWN, ROCKLAND COUNTY
167	826	CR	Aug-06-84	G	NY	.43			CARTHAGE BRANCH IN WATERTOWN, JEFFERSON COUNTY
167	827	CR	Jun-14-84	G	NY	.72			TIVOLI STREET SPUR IN ALBANY, ALBANY COUNTY
167	847	CR	Jul-02-84	G	NY	.94			CLINTON STREET SPUR IN SYRACUSE, ONONDAGA COUNTY
167	848	CR	Jul-02-84	G	NY	2.00			ATTICA BRANCH TO BATAVIA IN GENESEE COUNTY
167	899	CR	Oct-15-84	W	NY	.00 1.48 Sup			BEDFORD/BAY RIDGE SECONDARY TRACK IN QUEENS COUNTY

TOTAL CASES FROM NEW YORK 41
TOTAL MILES GRANTED: 44.34

ALL FY 1984

DECIDED ABANDONMENT CASES BY PRIMARY STATE IMPACTED
TOTAL OF 593 CASES DECIDED AS OF Mar-12-1985

DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
26	27	SOU	Oct-09-84	G	AL	39.00			BETWEEN MARION AND AKRON IN PERRY AND HALE COUNTIES
28	5	CGA	May-29-84	G	AL	36.80			BETWEEN UNION SPRINGS AND MONTGOMERY,IN BULLOCK AND MONTGOMERY COUNTIE
43	101	ICG	Oct-05-84	Ds	AL	.00			BET TUSCALOOSA AND MAPLESVILLE IN TUSCALOOSA,BIBB & CHILTON COUNTIES
55	92	SBD	Dec-28-83	G	AL	6.70			BETWEEN MONMOUTH AND KIMBERLY IN JEFFERSON COUNTY
55	96	SBD	Mar-02-84	G	AL	33.50			BETWEEN BAY MINETTE AND FOLEY IN BALDWIN COUNTY
XN 55	101	SBD	Dec-16-83	G	AL	9.64			IN TUSCALOOSA AND BIBB COUNTIES
55	106	SBD	Apr-10-84	G	AL	5.50			BETWEEN FAYETTEVILLE AND GANTT'S JCT IN TALLADEGA COUNTY
55	109	SCL	Sep-07-84	G	AL	13.96			BETWEEN ELBA AND ENTERPRISE IN COFFEE COUNTY
55	117	SBD	Feb-06-85	G	AL	.00			BETWEEN ANNISTON AND COLDWATER IN CALHOUN AND TALLADEGAA COUNTIES
55	119	SBD	Dec-21-84	W	AL	.00			BET GREENS AND IVALEE IN JEFFERSON, BLOUNT & ETOWAH COUNTIES
55	121	SBD			AL	.00			BET LAWRENCEBURG, TN AND FLORENCE,AL

TOTAL CASES FROM ALABAMA 11
TOTAL MILES GRANTED: 145.10

DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
XN 3	38	MP	Feb-22-84	G	AR	31.20			BETWEEN EL DORADO AND HUTTIG IN UNION COUNTY
39	4	SSRC	Jan-27-84	G	AR	6.10			BET INDIANA AND GILLETT IN ARKANSAS COUNTY

TOTAL CASES FROM ARKANSAS 2
TOTAL MILES GRANTED: 37.30

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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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    52  28 ATSF  Jul-11-84 G AZ         28.22                  BET ABRA AND PRESCOTT, YAVAPAI COUNTY
XN  52  35 ATSF  Sep-28-84 G AZ           .44                  NEAR CLARKDALE, YAVAPAI COUNTY


TOTAL CASES FROM  ARIZONA          2
TOTAL MILES GRANTED:     28.66

                                                               WEST SANTA ANA BRANCH. LA COUNTY
XN  12  72 SP    JUN-15-84 G CA           .04                  BETWEEN LOOKOUT AND HAMBONE IN MODOC AND SISKIYOU COUNTIES
     6 174 BN    Apr-24-84 D CA           .00                  NEAR BIOLA JUNCTION TO NEAR BIOLA IN FRESNO COUNTY
    12  75 SP    Nov-29-84 G CA          9.37                  BET CHICO AND BUTTE CREEK IN BUTTE COUNTY
    12  76 SP    Aug-28-84 G CA          3.31                  BET HARRINGTON AND COLUSA IN COLUSA COUNTY
    12  78 SP    Oct-09-84 G CA         24.13                  ENTIRE LINE NEAR SANTA ROSA TO SAGU, PETALUMA & W.PETALUMA SONOMA COUN
    15   3 PSR   May-03-84 G CA           .00                  SAN DEIGO AND PLASTER IN SAN DEIGO,IMPERIAL COUNTIES
    16   1 SDAE  APR-30-84 D CA           .00                  FRESNO COUNTY
XN  52  09 ATSF  MAY-25-84 G CA          4.24

TOTAL CASES FROM  CALIFORNIA       8
TOTAL MILES GRANTED:     40.09


 XN 6 185 BN     Jan-06-84 G CO          9.59                  BETWEEN ERIE AND LONGMONT IN BOULDER AND WELD COUNTIES
 XN 6 218 BN     Aug-24-84 G CO          3.83                  BET LAYAETTE AND ERIE IN BOULDER AND WELD COUNTIES
 XN 8   4 DRGW   Jul-16-84 G CO         21.68                  BETWEEN SALIDA AND MONARCH IN CHAFFEE COUNTY


TOTAL CASES FROM  COLORADO         3
TOTAL MILES GRANTED:     35.10


     6 [illegible] BN     Jun-23-83 G ID          7.00                  BETWEEN MOSCOW AND ESTES IN LATAH COUNTY
    36  17 UP    Sep-30-83 G ID         55.93                  BETWEEN SHOSHONE & FAIRFIELD IN CAMAS,BLAINE,& LINCOLN COUNTIES
    36  18 OSL   Sep-27-83 G ID         10.46                  BETWEEN MARTIN AND OAKLEY IN CASSIA COUNTY


TOTAL CASES FROM  IDAHO            3
TOTAL MILES GRANTED:     73.39


     1 160 CNW   Sep-12-83 G IL          2.60                  BETWEEN MAYWOOD AND BELLWOOD IN COOK COUNTY
     3  36 MP    Jul-29-83 G IL         24.20                  BETWEEN CAIRO JUNCTION AND CAIRO IN ALEXANDER COUNTY
     6 137 BN    Mar-23-83 G IL          3.81                  BETWEEN RIO AND NORTH HENDERSON,IN KNOX AND MERCER COUNTIES
     6 139 BN    Apr-01-83 G IL          4.16                  BETWEEN ALPHA AND WOODHULL IN HENRY COUNTY
     6 141 BN    Aug-11-83 D IL           .00                  BETWEEN ALPHA AND ALEDO IN HENRY AND MERCER COUNTIES
     6 142 BN    May-06-83 G IL         26.21                  BETWEEN ELMWOOD AND WYOMING IN PEORIA AND STARK COUNTIES
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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     6 152 BN    Aug-02-83 G IL          29.72                  BETWEEN CONCORD AND WHITEHALL IN MORHAN,SCOTT,& GREENE COUNTIES
     6 164 BN    Feb-02-84 G IL          59.91                  BETWEEN EARVILLE AND LYNDO IN WHITESIDE,LEE AND LASALLE COUNTIES
     7 103 MILW  Nov-02-82 D IL            .00 WI               BETWEEN FOX LAKE,IL AND WALWORTH, WI
     7 106 MILW  Nov-16-83 W IL            .00                  BETWEEN EBNER AND ALBANY
    43  90 ICG   Mar-08-83 G IL          26.30                  BETWEEN REEVESVILLE AND ROSICLARE
    43  96 ICG   Dec-30-82 G IL          13.54                  BET DICKERSON AND RANTOUL IN CHAMPAIGN COUNTY
    43  98 ICG   Feb-07-83 G IL          16.22                  ASHLAND AND JACKSONVILLE IN CASS AND MORGAN COUNTIES
    43 100 ICG   Jun-08-83 G IL          27.71                  KERRICK-FREEPORT&HEYWORTH-NORMAL&BARNES-NORMAL, IN MCLEAN,WOODFORD,ETC
    52  21 ATSF  Apr-13-83 G IL          39.99                  BETWEEN MORTON AND PEKIN IN LIVINGSTON,LASALLE,WOODFORD,TAZEWELL

 TOTAL CASES FROM  ILLINOIS        15
 TOTAL MILES GRANTED:    274.37

     3  37 MP    Aug-29-83 G KS           6.90                  BETWEEN GREENLEAF AND WASHINGTON IN WASHINGTON COUNTY
XN  33  22 UP    Oct-20-83 G KS           3.69                  BETWEEN BRIDGEPORT AND LINDSBORG IN SALINE AND MCPHERSON COUNTIES
    52' 25 ATSF  Mar-09-84 G KS          43.38                  MANCHESTER AND BARNARD IN DICKINSON,OTTAWA AND LINCOLN COUNTIES

 TOTAL CASES FROM  KANSAS           3
 TOTAL MILES GRANTED:     53.97

    18  50 CO    Nov-04-83 G KY           1.15                  PORTION LEXINGTON SUBDIVISION IN WINCHESTER, CLARK COUNTY
    43  97 ICG   Dec-06-82 G KY          17.27                  BETWEEN CLAYBURN AND FULTON IN GRAVES AND HICKMAN COUNTIES
    55  71 SBD   Nov-29-83 G KY          17.50                  BETWEEN WICKLAND,NELSON COUNTY & SPRINGFIELD, WASHINGTON COUNTY
    55  77 SCL   Jul-29-83 G KY           5.23                  BETWEEN CENTERTOWN ANDD HARTFORD IN OHIO COUNTY

 TOTAL CASES FROM  KENTUCKY         4
 TOTAL MILES GRANTED:     41.15

    32  22 BM    Dec-22-82 W MA            .00                  EASTHAMPTON IN HAMPSHIRE COUNTY
    32  24 BM    Mar-03-83 W MA           5.75                  BETWEEN GROTON AND TOUSENND IN WORCHESTER COUNTY
    32  26 BM    JUL-15-83 W MA           1.47                  GEORGETOWN BRANCH IN HAVERHILL,ESSEX COUNTY

 TOTAL CASES FROM  MASSACHUSETT     3
 TOTAL MILES GRANTED:     000   COURT JURISDICTION
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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    83   4 MEC    Jul-15-83 G ME          8.60                   BETWEEN PITTSFIELD AND HARTLAND IN SOMERSET COUNTY


TOTAL CASES FROM  MAINE              1
TOTAL MILES GRANTED:      8.60


     5 207 PC     Mar-07-83 W MI           .00                   HILLSDALE TO QUINCY LINE & JONESVILLE TO LITCHFIELD LINE, HILLSDALE,CY
    19  46 CO     May-27-83 G MI         16.31                   MT.PLEASANT BRANCHBETWEEN MT.PLEASANT & CLARE IN ISABELLA COUNTY
    31   7 GTW    May-31-83 G MI          6.79                   BETWEEN  PIGEON AND CASEVILLE IN HURON COUNTY
    31   8 GTW    Jan-23-84 G MI         19.30                   BETWEEN CARSON CITY AND ASHLEY IN MONTCALM AND GRATIOT COUNTIES
    31   9 GTW    Jan-13-84 G MI         50.24                   BETWEEN KINGS MILL AND PIGEON IN HURON,LAPEER AND TUSCOLA COUNTY
XN  31  10 GTW    Sep-14-83 G MI         10.00                   BET MP 60.3 AND MP 70.3 ON THE JACKSON SUBDIV IN OAKLAND & LIVINGSTON
XN  31  11 GTW    Sep-14-83 G MI          1.13                   MICHIGAN AIR LINE BRANCH IN OAKLAND COUNTY
XN  31  12 GTW    Sep-22-83 I$ MI          .00                   TRACKAGE RIGHTS OVER C&O SAGINAW IMPROVEMENT SPUR IN SAGINAW COUNTY
XN  31  13 GTW    Sep-14-83 G MI           .70                   SUPERIOR STREET SPUR IN SAGINAW COUNTY
XN  31  14 GTW    Sep-14-83 G MI           .30                   WINKLER LUCAS SPUR IN SAGINAW COUNTY
XN  31  15 GTW    Sep-14-83 G MI           .80                   PORTION MICHIGAN CENTRAL MACKINAW BRANCH IN SAGINAW COUNTY
XN  31  16 GTW    Sep-14-83 G MI          6.60                   BETWEEN MP 44.0 AND MP 50.6 SAGINAW SUBDIV IN SAGINAW AND BAY COUNTIES
XN  31  17 GTW    Sep-14-83 G MI           .70                   PORTION MICHIGAN CENTRAL SAGINAW BRANCH, IN SAGINAW COUNTY


TOTAL CASES FROM  MICHIGAN          13
TOTAL MILES GRANTED:    112.87


     6 140 BN     Apr-18-83 G MN         16.05                   NEAR HOOT LAKE AND BATTLE LAKE, IN OTTER TAIL COUNTY
     6 147 BN     Jun-01-83 G MN         19.00                   BETWEEN MORRIS AND STARBUCK IN STEVENS AND POPE COUNTIES
     6 150 BN     Jul-20-83 G MN         31.45                   BETWEEN FERTILE AND ULEN IN POLK,CLAY,AND NORMAN COUNTIES
     6 157 BN     Aug-29-83 G MN         45.00                   BETWEEN ST.CLOUD AND MORA IN BENTON,KANABEC,& MILLE LACS COUNTIES
     6 161 BN     Sep-22-83 G MN          8.14                   BETWEEN ST. CLOUND AND CLEARWATER IN STEARNS AND WRIGHT COUNTIES
     6 168 BN     Nov-15-83 G MN         37.02                   BETWEEN WADENA AND LONG PRAIRIE IN WADENA AND TODD COUNTIES
     7 104 MILW   Sep-29-83 W MN           .00 IA                BETWEEN AUSTIN & CALMAR IN MOWER COUNTY,MN & HOWARD & WINNESHIEK COUNT
   101   5 DMIR   May-03-83 G MN         29.86                   WALES BRANCH NEAR JORDAN NORTH TO SAWBILL IN LAKE COUNTY


TOTAL CASES FROM  MINNESOTA          8
TOTAL MILES GRANTED:    186.52


     3  34 MP     Jan-03-83 G MO         19.60                   BET NEELYVILLE AND DONIPHAAN IN UTLER AND RIPLEY COUNTIES
     3  35 MP     Jul-27-83 G MO         19.40                   BETWEEN DELTA AND JACKSON IN CAPE GIRARDEAU COUNTY
     6 144 BN     Jun-07-83 G MO         37.83                   BETWEEN WILLOW SPRING AND WINONA IN HOWELL AND SHANNON COUNTIES
     6 148 BN     Jun-20-83 G MO          7.50                   BETWEEN KISSICK AND OZARK IN CHRISTIAN AND GREENE COUNTIES
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DOCKET SUB ROAD1 RECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                        TITLE
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    10  27 NW    Nov-01-83 G MO        156.12 IA        66.18 BETWEEN KELLY,MISSOURI AND COUNCIL BLUFFS,IOWA
    52  24 ATSF  Nov-04-83 G MO          5.60                  BETWEEN HENRIETTA AND RICHMOND IN RAY COUNTY
   102  10 MKT   Feb-10-83 G MO          5.90                  BETWEEN HORN AND JOPLIN IN JASPER COUNTY

TOTAL CASES FROM  MISSOURI         7
TOTAL MILES GRANTED:    250.95

    47  95 ICG   Dec-01-83 G MS         17.49                  BETWEEN HOLLANDALE, WASHINGTON COUNTY AND ROLLING FORK,SHARKEY COUNTY
    43  99 ICG   Apr-09-83 G MS         10.30                  BETWEEN TAYLORSVILLE AND SOSO IN SMITH AND JONES COUNTIES

TOTAL CASES FROM  MISSISSIPPI      2
TOTAL MILES GRANTED:     27.79

     6 131 BN    Apr-05-83 G MT         12.39                  BETWEEN CIRCLE AND BROCKWAY IN MCCONE COUNTY
     6 139 BN    Aug-02-83 G MT         41.22                  BET BIG SANDY AND FORT BENTON IN CHOTEAU COUNTY
     6 153 BN    Jul-15-83 G MT         77.45                  NEAR SACO AND NEAR HOGELAND,PHILLIPS AND BLAINE COUNTIES
     6 160 BN    Aug-24-83 G MT         38.16                  BETWEEN HESPER AND RAPELJE IN STILLWATER AND YELLOWSTONE COUNTIES
     6 166 BN    Oct-11-83 G MT         21.41                  BETWEEN CHOTEAU AND PENDROY IN TETON COUNTY
     6 167 BN    Nov-03-83 G MT          6.13                  BETWEEN FROMBERG AND BRIDGE IN CARBON COUNTY

TOTAL CASES FROM  MONTANA          6
TOTAL MILES GRANTED:    196.76

    55  68 SCL   May-10-83 G NC          2.32                  BETWEEN JONESBORO AND SANFORD IN LEE COUNTY
    55  70 SCL   Sep-09-83 G NC         19.50                  BETWEEN PENDER AND SCOTLAND NECK IN HALIFAX COUNTY
    55  74 SBD   Oct-21-83 G NC         11.40                  BETWEEN PITTSBORO AND MONCURE, CHATHAM COUNTY
    55  78 SBD   Oct-12-83 G NC         27.40                  BETWEEN HENDERSON,VANCE COUNTY AND CREEDMOOR, GRANVILLE COUNTY
    55  79 SCL   Nov-16-83 G NC         89.17                  BETWEEN COASTAL AND NEW BERN IN NEW HANOVER,PENDER,ONSLOW,JONES,CRAVEN
    55  85 SBD   Feb-17-84 G NC         12.78                  BETWEEN FAIRMONT JUNCTION AND FAIRMONT IN ROBESON COUNTY

TOTAL CASES FROM  NORTH CAROLI     6
TOTAL MILES GRANTED:    162.57

     6 149 BN    Jul-06-83 G ND         16.65                  BETWEEN GRAND FORKS AND HONEYFORD IN GRAND FORKS COUNTY
     6 154 BN    Nov-09-83 G ND         39.38                  BETWEEN EDGELEY JUNCTION & STREETER IN LAMOURE,LOGAN &STUTSMAN COUNTIE
     6 163 BN    Mar-01-84 G ND         27.94                  BETWEEN OAKES AND ELLENDALE IN DICKEY COUNTY
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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TOTAL CASES FROM  NORTH DAKOTA      3
TOTAL MILES GRANTED:      93.97

     3  32 MP     Nov-10-92 G NE           4.90                BET LOWLINE JUNCTION AND AVOCA IN CASS COUNTY
     6 151 BN     Jul-22-93 G NE           7.91                PAPPIO,& GILMORE JUNCTION IN SARPY & DOUGLAS COUNTIES
     6 156 BN     Aug-29-93 G NE          18.90                BETWEEN WOODLAWN AND SEWARD IN LANCASTER AND SEWARD COUNTIES

TOTAL CASES FROM  NEBRASKA          3
TOTAL MILES GRANTED:      31.71

XN  72  25 BM     Mar-03-93 W NH           9.40                BETWEEN SALEM AND DERRY IN ROCKINGHAM COUNTY

TOTAL CASES FROM  NEW HAMPSHIR      1
TOTAL MILES GRANTED:       9.40

   167 458 CR     Aug-26-93 D NJ            .00                CHESTER BRANCH
   167 473 CR     Jun-17-93 G NJ           3.10                BETWEEN PARK AVENUE AT PENNSAUKEN-JORDAN   [illegible]    CAMDEN COUN
   167 474 CR     Jul-12-93 G NJ           1.60                BET BELLMAWR AND GLENDORA IN CAMDEN COUNTY
   167 475 CR     Jun-17-93 G NJ           1.00                IN GLASSBORO BETWEEN CONNECTION WITH MILLVILLE BRANCH IN GLOUCESTER CO
   167 476 CR     Jun-29-93 G NJ          31.40                BETWEEN WINSLOW JUNCTION AND HAMMONTON IN ATLANTIC AND CAMDEN COUNTIES
   167 477 CR     Aug-31-93 D NJ            .00                DEERFIELD RUNNING TRACK BETWEEN BRIDGETOWN JCT & SEABROOK IN CUMBERLAN
   167 478 CR     Jun-29-93 G NJ          29.60                CAPE MAY POINT BRANCH BETWEEN TUCKAHOE AND CAPE MAY

TOTAL CASES FROM  NEW JERSEY        7
TOTAL MILES GRANTED:      67.20

    52  22 ATSF  Jan-20-93 G NM          12.60                BETWEEN BURRO MOUNTAIN JCT & SILVER CITY IN GRANT COUNTY

TOTAL CASES FROM  NEW MEXICO        1
TOTAL MILES GRANTED:      12.60

   167 492 CR     Aug-15-93 G NY           1.00                KELLOGG INDUSTRIAL TRACK IN AMSTERDAM,MONTGOMERY COUNTY
   167 495 CR     Dec-28-93 G NY          12.06                BETWEEN HARRIMAN AND GOSHEN IN ORANGE COUNTY
   167 496 CR     Dec-28-93 G NY           7.50                BET GOSHEN AND MIDDLETOWN IN ORANGE COUNTY
   167 497 CR     Apr-03-94 W NY            .00                BEDFORD INDUSTRIAL & SECONDARY TRACK IN KINGS & QUEENS COUNTIES
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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   167 499 CR    Apr-04-84 G NY          .80                  THE EVERGREEN INDUSTRIAL TRACK IN QUEENS COUNTY
   209   1 BEDT  Jul-15-83 G NY          .55                  BROOKLYN EASTERN DISTRICT-ENTIRE LINE-KINGS & QUEENS COUNTIES
   219   2 NYD   Jul-08-83 W NY          .00                  NEW YORK DOCK RY - ENTIRE LINE KINGS COUNTY


TOTAL CASES FROM  NEW YORK          7
TOTAL MILES GRANTED:      21.91


XN 18  49 CO     Oct-14-83 G OH         8.66                  BETWEEN CREOLA AND DUNDAS IN VINTON COUNTY
   19  59 BO     Apr-25-83 G OH         8.81                  BETWEEN ARCANUM AND GREENSVILLE, DARKE COUNTY
   19  62 BO     Nov-21-83 G OH        28.02                  BETWEEN LAMIRA AND GIBSON IN GUERNSEY,NOBLE AND BELMONT COUNTIES
  111   4 DTI    Jul-11-83 G OH        11.70                  BETWEEN THRIFTON AND WASHINGTON COURT HOUSE
XN111   5 DTI    Sep-14-83 G OH         1.50                  BETWEEN MP 236.0 & MP 237.5 ON THE FORMER MAINLINE IN FAYETTE COUNTY
XN111   6 DTI    Sep-14-83 G OH         1.30                  BETWEEN MP 7.1 AND MP 8.4 ON THE TECUMSEH BRANCH IN HENRY COUNTY
  167 456 CR     Apr-20-83 G OH         1.48                  PORTIONS OF CLEVELAND-PYMATUNING MAIN LINE & HASELTON BRANCH,YOUNGSTOW
  167 472 CR     Jul-05-83 G OH          .50                  PORTION A & B ORE DOCK IN ASHTABULA COUNTY
  167 494 CR     Feb-23-84 W OH          .00                  EAST COLUMBUS INDUSTRIAL TRACK IN COLUMBUS,FRANKLIN COUNTY
  167 500 CR     Oct-17-83 G OH         5.20                  URBANA SECONDARY TRACK IN CHAMPAIGN AND CLARK COUNTIES
  167 502 CR     Oct-28-83 G OH         9.20                  BETWEEN BRADFORD AND EAST GREENVILLE IN DARKE AND MIAMI COUNTIES
  167 508 CR     Nov-25-83 G OH         8.60                  BETWEEN MEEKER AND UNION CITY IN DARKE COUNTY


TOTAL CASES FROM  OHIO             12
TOTAL MILES GRANTED:      85.17


    52  19 ATSF  Apr-14-83 G OK        51.06                  BETWEEN WAYNOKA AND BUFFALO IN WOODS,WOODWARD & HARPER COUNTIES


TOTAL CASES FROM  OKLAHOMA          1
TOTAL MILES GRANTED:      51.06


   225   1 PTC   Nov-01-83 G OR         4.64                  MT HOOD DIV BET LINNEMANN JCT & EAST GRESHAM, IN MULTNOMAH COUNTY


TOTAL CASES FROM  OREGON            1
TOTAL MILES GRANTED:       4.64


   167 457 CR    Jun-02-83 G PA        39.20                  UNIONVILLE-MILL HALL & MILESBURG-LEMONT IN CENTRE AND CLINTON COUNTIES
   167 459 CR    May-18-83 G PA          .95                  PORTIONS CITY BRANCH & WILLOW STREET INDSTRIAL TRACK, PHILDELPHIA
   167 460 CR    Aug-30-83 D PA          .00                  THE HARRY E. BREAKER SPUR AT MALTBY JUNCTION IN LUZERNE COUNTY
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                      TITLE
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   167 461 CR    Aug-30-83 D PA          .00                  THE MILL HOLLOW BRANCH UNION STREET,KINGSTON,LUZERNE COUNTY
   167 462 CR    Aug-30-83 D PA          .00                  A CLUSTER OF LINES IN THE VICINITY OF KINGSTON,LUZERNE COUNTY
   167 463 CR    Aug-30-83 D PA          .00                  EXETER COLLIERY BRANCH IN WEST PITTSTON IN LUZERNE COUNTY
   167 464 CR    Aug-30-83 D PA          .00                  LANGCLIFFE CONNECTING TRACK IN AVOCA,LUZERNE COUNTY
   167 465 CR    Aug-30-83 D PA          .00                  AVOCA  INDUSTRIAL TRACK IN AVOCA, LUZERNE COUNTY
   167 466 CR    Aug-30-83 D PA          .00                  OLD FORGE TRACK IN AVOCA, LUZERNE COUNTY
   167 467 CR    Aug-30-83 D PA          .00                  THE LAUREL(BRADY)INDUSTRIAL TRACK AT LITTLE VIRGINIA IN LACKAWANNA CTY
   167 468 CR    Aug-30-83 D PA          .00                  MINOOKA INDUSTRIAL TRACK AT LIITTLE VIRGINIA IN LACKAWANNA COUNTY
   167 469 CR    Aug-30-83 D PA          .00                  DUNMORE SECONDARY TRACK & KEYSTONE TRACK AT ROCK JUNCTION,LACKAWANNA
   167 470 CR    Aug-30-83 D PA          .00                  DIAMOND INDUSTRIAL TRACK IN SCRANTON LACKAWANNA COUNTY
   167 471 CR    Aug-30-83 D PA          .00                  GREENRIDGE INDUSTRIAL TRACK IN SCRANTON,LACKAWANNA COUNTY
   167 479 CR    Jun-17-83 G PA         1.70                  NINTH STREET BRANCH AND CITY BRANCH IN PHILADELPHIA
   167 480 CR    Aug-30-83 D PA          .00                  KINGSTON INDUSTRIAL TRACK IN LUZERNE COUNTY
   167 481 CR    Sep-14-83 G PA         4.00                  BETWEEN WYOMING AND KINGSTON IN LUZERNE COUNTY
   167 486 CR    Sep-23-83 G PA          .96                  CARBON RUN INDUSTRIAL TRACK IN SHAMOKIN,NORTHUMBERLAND COUNTY
   167 487 CR    Dec-22-83 G PA         7.80                  BETWEEN SHAMOKIN AND TREVORTON IN NORTHUMBERLAND COUNTY
   167 489 CR    Mar-16-84 G PA         1.00                  BLOOMSBURG, IN NORTHUMBERLAND COUNTY
   167 490 CR    Sep-23-83 G PA         1.50                  DOUGAL BRANCH & MILTON INDUS TRACK IN W.MILTON, NORTHUMBERLAND COUNTY
   167 492 CR    Aug-31-83 G PA         1.00                  BRIDGEVILLE-MCDONALD BRANCH IN BRIDGVILLE,ALLEGHENY COUNTY
   167 507 CR    Dec-01-83 G PA         5.20                  BET ELLIOTT & WAGNER-ESPLEN & CORLISS & SHERIDAN CONNECTION PANHANDLE
   188   1 JSC   Jul-27-83 G PA         5.46                  JOHNSTOWN AND STONY CREEK RR CO-ENTIRE LINE-CAMBRIA COUNTY


TOTAL CASES FROM  PENNSYLVANIA    24
TOTAL MILES GRANTED:     68.77


XN 28   7 CGA   Oct-04-83 G SC         6.83                  NORTH AUGUSTA, AIKEN COUNTY
   55  86 SBD   Feb-21-84 G SC        15.20                  BETWEEN PEE DEE AND MULLINS IN MARION COUNTY


TOTAL CASES FROM  SOUTH CAROLI     2
TOTAL MILES GRANTED:     22.03


    1 154 CNW   Feb-15-84 D SD          .00                  BETWEEN PIERRE AND RAPID CITY,IN STANLEY,JONES,HAAKON,JACKSON ETC
    6 162 BN    Sep-09-83 G SD        65.70                  BETWEEN CUSTER AND DEADWOOD IN CUSTER,PENNINGTON & LAWRENCE COUNTIES


TOTAL CASES FROM  SOUTH DAKOTA     2
TOTAL MILES GRANTED:     65.70
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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     2  42 LN    Feb-28-83 G TN         18.50                   BETWEEN MONTEREY AND CROSSVILLE IN PUTNAM AND CUMBERLAND COUNTIES
     2  43 LN    Jun-13-83 G TN         60.10                   BETWEEN TULLAHOMA AND SPARTA IN COFFEE,WARREN AND WHITE COUNTIES
    55  66 SBD   Jul-22-83 G TN          7.40                   BETWEEN MENTOR ANND FRIENDSVILLE IN BLOUNT COUNTY
    55  75 SCL   Nov-01-83 G TN          3.60 AL          40.00 BET ELORA,LINCOLN COUNTY.TN & HOBBS ISLAND, MADISON COUNTY,AL
    55  84 SBD   Sep-20-83 G TN         38.50                   BETWEEN ZINC AND DANVILLE IN HOUSTON,STEWART & MONTGOMERY COUNTIES

TOTAL CASES FROM  TENNESSEE          5
TOTAL MILES GRANTED:     128.10


    39   3 SSW   Apr-06-83 G TX         43.13                   BETWEEN RUSK AND KELTYS IN CHEROKEE AND ANGELINA COUNTIES
    52  20 ATSF  Dec-17-82 G TX         10.40                   BETWEEN WHITE DEER AND SKELLYTOWN IN CARSON COUNTY
    52  23 ATSF  Oct-27-83 G TX         24.20                   BETWEEN WHITEFACE AND BLEDSOE IN COCHRAN COUNTY


TOTAL CASES FROM  TEXAS              3
TOTAL MILES GRANTED:      77.73


XN 32  23 BM     Mar-10-83 W VT           .00 NH                BETWEEN BRATTLEBORO,VT AND KEENE,N.H.


TOTAL CASES FROM  VERMONT            1
TOTAL MILES GRANTED:        .00


      6 128 BN   Dec-15-82 G WA         20.86                   BETWEE HOQUIAM AND ALOHA IN GRAYS HARBOR COUNTY
      6 130 BN   Jan-18-83 G WA         17.51                   BETWEEN DAVENPORT AND ELEANOR IN LINCOLN COUNTY
      6 133 BN   Feb-03-83 G WA          5.68                   BETWZEN SPRING VALLEY AND FAIRBANKS IN SPOKANE AND WHITMAN COUNTIES
      6 134 BN   Feb-23-83 G WA         14.83                   BETWEEN SPRING VALLEY AND MT.HOPE IN SPOKANE COUNTY
      6 136 BN   Mar-18-83 G WA         19.80                   BETWEEN ADRIAN AND WHEELER IN GRANT COUNTY
      6 146 BN   Jun-23-83 G WA          4.85                   BETWEEN PALOUSE AND GRINNELL IN WHITMAN COUNTY
      6 158 BN   Aug-30-83 G WA         31.18                   BETWEEN WALAIR AND DAYTON IN WALLA WALLA AND COLUMBIA COUNTIES

TOTAL CASES FROM  WASHINGTON         7
TOTAL MILES GRANTED:     114.71


      1 144 CNW  May-05-83 G WI         48.20                   WAUKESHA AND COTTAGE GROVE IN WAUKESHA,JEFFERSON AND DANE COUNTIES
      7 105 MILW             WI           .00                   GREEN BAY, BROWN COUNTY

TOTAL CASES FROM  WISCONSIN          2
TOTAL MILES GRANTED:      48.20
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                                 TITLE
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      18  48 CO    Dec-06-83 G WV          29.32              GREENBRIER JUNCTION AND BARTOW IN POCAHONTAS AND RANDOLPH COUNTIES
      19  60 BO    Dec-06-83 G WV           2.84              BETWEEN DURBIN AND BARTOW IN POCAHONTAS COUNTY
      69  10 WM    Dec-06-83 G WV          26.48              DURBIN BRANCH BETWEEN GREENBRIER JUNCTION AND DURBIN

TOTAL CASES FROM  WEST VIRGINI      3
TOTAL MILES GRANTED:      58.64
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CONTINUATION FY 1984

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DECIDED ABANDONMENT CASES BY PRIMARY STATE IMPACTED
TOTAL OF    227 CASES DECIDED AS OF Mar-12-1985

DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                                 TITLE
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XN  18  52 CC    Aug-1[illegible]-84 [illegible]      [illegible].04   PORTION POMEROY SUBDIV BET HOBSON AND POMEROY, MEIGS COUNTY
XN  19  63 BO    Nov-28-83 G OH          .49              CLUSH SUBDIV NEAR MARY ST & ITEBARY ST IN CLEVELAND,CUYAHOGA COUNTY
XN  19  66 BO    Feb-15-84 G OH          .58              WOOSTER BRANCH IN LODI, MEDINA COUNTY
XN  19  67 BO    Feb-17-84 G OH          .59              PORTION TOLEDO DIV IN CINCINNATI, HAMILTON COUNTY
    19  70 BO    Jun-20-84 G OH         5.44              BET FIREBRICK AND S.WEBSTER IN SCIOTO AND LAWRENCE COUNTIES
XN  19  73 BO    May-24-84 G OH         3.95              PORTION MIDVALE BRANCH INCLUDING BEAVER DAM BRANCH TUSCARAWAS COUNTY
XN  19  74 BO    May-22-84 G OH         1.00              IN YOUNGSTOWN, MAHONING COUNTY
XN  19  82 BO    Aug-02-84 G OH         4.70              PORTION  NEWTON FALLS SUBDIV BET GIRARD AND NILES, TRUMBULL COUNTY
XN  19  85 BO    Sep-21-84 G OH         1.93              PORTION PORTSMOUTH BRANCH AT HILLARD, SCIOTO COUNTY
XP  19  87 BO    Oct-23-84 G OH        26.02              NEAR AKRON AND AT WILLOW IN SUMMIT AND CUYAHOGA COUNTIES
   111   7 GTW   Jun-14-84 G OH        18.20              BETWEEN GREGCO AND JACKSON IN PIKE AND  JACKSON COUNTIES
   167 501 CR    Nov-29-84 G OH        16.00              BET S.CHARLESTON AND XENIA IN CLARK  AND GREENE COUNTIES
   167 503 CR    Apr-04-84 W OH          .00 4.8 SOLD     DODSON SECONDARY TRACK BETWEEN DAYTON AND STILLWATER IN MONTGOMERY COU
   167 504 CR    Apr-05-84 G OH        36.70              BET HILLIARDS AND URBANA IN FRANKLIN,UNION,MADISON & CHAMPAIGN COUNTIE
   167 505 CR    Jun-29-84 G OH        46.95              COLUMBUS-CHICAGO MAIN LINE BET URBANA AND MEEKER IN CHAMPAIGN & DARKE
   167 509 CR    Jul-02-84 G OH         1.20              MANUFACTURES INDUSTRIAL TRACK IN TOLEDO, LUCAS COUNTY
   167 513 CR    Apr-02-84 G OH         6.25              JEFFERSON INDUSTRIAL TRACK FROM CARSON TO JEFFERSON IN ASHTABULA COUNT
   167 523 CR    Apr-16-84 G OH        13.50              BETWEEN CAREY AND FOREST IN WYANDOT AND HARDIN COUNTIES
   167 588 CR    Jun-01-84 G OH         1.14              MARYVILLE INDUSTRIAL TRACK IN MARYVILLE,UNION COUNTY
   167 590 CR    May-02-84 G OH         1.30              FRANCE STONE LEAD TRACK IN BLOOMVILLE SENECA COUNTY
   167 591 CR    Oct-12-84 G OH         1.50              CRAIG ELEVATOR LEAD TRACK BET WEST LIBERTY AND RUNKLE, LOGAN COUNTY
   167 592 CR    May-31-84 G OH          .80              MIDDLETOWN SECONDARY TRACK IN MIDDLETOWN,BUTLER COUNTY
   167 627 CR    Oct-02-84 G OH         3.30              BLUE ASH SECONDARY TRACK IN CINCINNATI, HAMILTON COUNTY
   167 629 CR    Jun-28-84 G OH         1.49              HARDING INDUSTRIAL TRACK IN HARDING, RICHLAND COUNTY
   167 647 CR    Jun-28-84 G OH          .66              CAREY SECONDARY TRACK IN KENTON, HARDIN COUNTY
   167 673 CR    May-29-84 G OH          .54              NORWALK YARD TRACK IN ELYRIA, LORAIN COUNTY
   167 680 CR    Jun-11-84 G OH          .60              IN MAPLE HEIGHTS FROM ALUMINUM SMELTING COMPANY FENCE, CUYAHOGA COUNTY
   167 684 CR    Oct-17-84 D OH          .00 18.34 SOLD   ASHLAND SEC TRACK AND MANSFIELD TRACK IN RICHLAND & ASHLAN
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DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
167	695	CR	Oct-10-84	G	OH	18.76			BETWEEN BURBANK AND ASHLAND IN ASHLAND AND WAYNE COUNTIES
167	686	CR	Aug-09-84	G	OH	.62			ST.MARY'S INDUSTRIAL TRACK IN BELLEFONTAINE, LOGAN COUNTYY
167	687	CR	Jun-28-84	G	OH	.74			SWAN CREEK RAILROAD INDUSTRIAL TRACK IN TOLEDO,LUCAS COUNTY
167	688	CR	Aug-20-84	G	OH	.68			CENTRAL FLATS LINE IN CLEVELAND, CUYAHOGA COUNTY
167	689	CR	Aug-28-84	G	OH	14.58			BET NILES AND MARQUIS IN TRUMBULL AND MAHONING COUNTIES
167	691	CR	May-25-84	G	OH	2.67			SOUTH LORAIN INDUSTRIAL TRACK DIST IN LORAIN, LORAIN COUNTY
167	692	CR	Jul-02-84	G	OH	.71			SCIOTO ORDNANCE LEAD TRACK IN MARION SERVING VIGORTONE, IN MARION COUN
167	706	CR	Aug-06-84	G	OH	.60			SYRUP TRACK NORTH SIDE OF DURNER STREET AT DAYTON, MONTGOMERY COUNTY
167	707	CR	Jul-19-84	G	OH	1.60			GSA DEPOT LEAD AT SHELBY IN RICHLAND COUNTY
167	726	CR	AUG. 09. 84	G	OH	3.95			BET KETTERING AND HEMPSTEAD IN MONTGOMERY COUNTY
167	727	CR	Dec-04-84	W	OH	.00	11.9 SOLD		MIDDLETOWN AND MASON SECONDARY TRACKS IN BUTLER AND WARREN COUNTIES
167	728	CR	Aug-28-84	G	OH	1.16			7X TRACK IN ELYRIA, LORAIN COUNTY
167	729	CR	Jun-28-84	G	OH	.50			PORT CLINTON INDUSTRIAL TRACK AT PORT CLINTON, OTTAWA COUNTY
167	730	CR	Aug-09-84	G	OH	1.12			PORTION PIER WEST LINE IN SANDUSKY, ERIE COUNTY
167	731	CR	Jul-02-84	G	OH	1.78			PORT CLINTON INDUS TRACK BET GYPSUM AND CELOTEX IN OTTAWA COUNTY
167	746	CR	Mar-22-84	G	OH	9.10			BET KANAUGA & GALLIPOLIS-HOBSON JCT & POMEROY IN GALLIA & MEIGS COUNTI
167	758	CR	JUL-09-84	G	OH	.17			TO TIFFIN ART METAL CO AT TIFFIN, SENECA COUNTY
167	785	CR	Aug-09-84	G	OH	1.10			Y & R CONNECTION AT RAVENNA, PORTAGE COUNTY
167	786	CR	Oct-29-84	G	OH	1.70			ALLSIDE SPUR AT STOW, IN SUMMIT COUNTY
167	793	CR	Aug-09-84	G	OH	10.42			M&C CONNECTING AND SECONDARY TRACK AT WARWICK, STARK & SUMMIT
167	794	CR	Jul-13-84	G	OH	4.18			BET YOUNGSTOWN AND HUBBARD IN TRUMBALL AND MAHONING COUNTIES
167	795	CR	Jul-13-84	G	OH	1.80			BET OAK STREET AND HUBBARD ROAD IN YOUNGSTOWN IN MAHONING COUNTY
167	796	CR	Nov-16-84	G	OH	3.27			BETWEEN WARREN AND NILES IN TRUMBALL COUNTY
167	797	CR	Oct-31-84	G	OH	4.07			BET LEAVITTSBURG AND WARREN IN TRUMBALL COUNTY
167	798	CR	Jul-19-84	G	OH	.42			STOW INDUSTRIAL TRACK AT STOW, SUMMIT COUNTY
167	[illegible]	CR	Oct-01-84	G	OH	1.00			S CANTON INDUSTRIAL TRACK IN CANTON, STARK COUNTY
167	831	CR	Jul-13-84	G	OH	1.90			OLD LINE RAVENNA TRACK AT RAVENNA, PORTAGE COUNTY
167	849	CR	Aug-09-84	G	OH	1.22			THE QUARRY SPUR AT ELYRIA,LORAIN COUNTY
167	874	CR	Sep-14-84	W	OH	.00	3.74 SOLD		ASHLAND SECONDARY TRACK BETWEEN WADSWORTH & RITTMAN,IN MEDINA & WAYNE
167	875	CR	Aug-09-84	G	OH	12.00			AKRON BRANCH AND SECONDARY TRACK
167	876	CR	Oct-31-84	G	OH	.80	+ 2.74 SOLD		Y & A BRANCH IN YOUNGSTOWN, MAHONING COUNTY
167	877	CR	Oct-31-84	G	OH	3.59			BETWEEN NILES AND GIRARD IN TRUMBALL COUNTY
167	881	CR	Oct-01-84	G	OH	.56			FREEDOM SECONDARY TRACK IN AKRON, SUMMIT COUNTY
167	883	CR	Aug-06-84	G	OH	1.69			SPRING TRACK INDUSTRIAALL TRACK AT XENIA, GREENE COUNTY
167	896	CR	Aug-08-84	G	OH	36.70			E&A CONNECTING TRACK B&O/CR JOINT FACILITY, TRUMBULL PORTAGE
167	897	CR	Oct-01-84	G	OH	2.10			ASHLAND SECONDARY TRACK IN AKRON, SUMMIT COUNTY
XN 227	0	WLE	Dec-14-83	G	OH	6.19			BETWEEN SAGINAW MINE SWITCH AND NEFFS IN BELMONT COUNTY

TOTAL CASES FROM OHIO 65
TOTAL MILES GRANTED: 352.40

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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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     6 165 BN    Dec-05-83 G OK        27.93 AR        16.10 BET FORT SMITH,AR AND WINSTER,OK INCLUDING JENSON & MONTREAL,AR
XN   6 205 BN    JUN-20-84   OK         2.90                 NEAR OKMULGEE, OKMULGEE COUNTY
    52  27 ATSF  May-07-84 G OK        25.47                 BETWEEN CAMP AND CUSHING IN PAWNEE AND PAYNE COUNTIES


TOTAL CASES FROM  OKLAHOMA          3
TOTAL MILES GRANTED:       56.30


    12  73 SP    Aug-21-84 G OR         6.05                 NEAR WILSONIA TO NEAR PORTLAND IN CLACKAMAS AND MULTNOMAH COUNTIES
    12  74 SP    Aug-02-84 G OR         7.48                 BETWEEN COQUILLE AND MYRTLE POINT IN COOS COUNTY


TOTAL CASES FROM  OREGON            2
TOTAL MILES GRANTED:       13.53


    19  65 BO    Feb-24-84 G PA         6.86                 BET WAYNESBORO AND QUINSONIA IN FRANKLIN COUNTY
XN  69  12 WM    Dec-23-83 G PA          .32                 PORTION YORK SUBDIVISION IN YORK,YORK COUNTY
    69  13 WM    Feb-24-84 G PA         6.86                 WAYNESBORO BRANCH BET WAYNESBORO AND QUINSONIA IN FRANKLIN COUNTY
XN 156  14 DH    May-21-84 G PA         1.00                 POPLAR STREET IN SCRANTON,LACKAWANNA COUNTY
XN 156  15 DH    May-21-84 G PA         1.33                 PLYMOUTH BRANCH IN WILKES-BARRE, LUZERNE COUNTY
   167 484 CR    Apr-18-84 G PA          .05                 ORTION WATSONTOWN SECONDARY TRACK IN DERRY TOWNSHIP, MONTOUR COUNTY
   167 495 CR    Oct-03-84 G PA         1.70                 PAXINOS INDUSTRIAL TRACK SOUTH OF SHAMOKIN CREEK IN NORTHUMBERLAND COU
   167 531 CR    Apr-05-84 G PA        18.98                 COATESVILLE IND TRACK & SECONDARY TRACK IN BERKS & CHESTER COUNTIES
   167 532 CR    Apr-18-84 G PA         1.97                 PENITENTIARY BRANCH IN LEWISBURG, UNION COUNTY
   167 533 CR    JUN-29-84 G PA         2.50                 FIELDMORE SPRINGS TRACK IN TITUSVILLE,CRAWFORD COUNTY
   167 553 CR    May-14-84 G PA        10.06                 VALLEY INDUSTRIAL TRACK IN KISKIMINETAS JUNCTION WESTMORELAND COUNTY
   167 554 CR    Jul-13-84 G PA          .75                 PLUM CREEK INDUSTRIAL TRACK IN VERONA, ALLEGHENY COUNTY
   167 555 CR    May-14-84 G PA          .30                 BUTLER BRANCH IN BUTLER,BUTLER COUNTY
   167 556 CR    May-15-84 G PA          .20                 ANN STREET TRACK IN OAKMONT,ALLEGHENY COUNTY
   167 557 CR    May-14-84 G PA         2.30                 SCHENLEY INDUSTRIAL TRACK IN LEECHBURG ARMSTRONG COUNTY
   167 558 CR    May-14-84 G PA         1.46                 FORT WAYNE CONNT TRACK & VALLEY INDUS TRACK PITTSBURGH,ALLEGHENY COUNT
   167 559 CR    May-14-84 G PA          .30                 BEAVER VALLEY BRANCH IN VANPORT BEAVER COUNTY
   167 560 CR    Oct-24-84 G PA         4.07 + 1.86 SOLD     APOLLO INDUSTRIAL TRACK AT APOLLO,ARMSTRONG COUNTY
   167 561 CR    Sep-05-84 G PA         1.69                 BLOCKHOUSE RUN TRACK IN NEW BRIGHTON, BEAVER COUNTY
   167 562 CR    May-15-84 G PA          .50                 HERR'SISLAND TRACK IN HERR'S ISLAND ALLEGHENY COUNTY
   167 563 CR    Oct-02-84 G PA         1.40                 WASHINGTON SEC TRACK BET ARDEN AND TYLERDALE
   167 564 CR    Jun-19-84 G PA         7.20                 YUKON INDUSTRIAL TRACK & WHYEL SPUR IN YUKON,WESTMORELAND COUNTY
   167 565 CR    Jan-09-85 W PA          .00 .50 SOLD        WEST ETNA TRACK IN ETNA, ALLEGHENY COUN
   167 566 CR    May-14-84 G PA         1.36                 LIGONIER BRANCH BET LAWSON HEIGHTS AND [illegible],WESTMORELAND COUNTY
   167 567 CR    Jun-08-84 G PA         1.93                 ECONOMY SECONDARY TRACK IN AMBRIDGE BEAVER COUNTY
   167 568 CR    Jun-19-84 G PA          .74                 UNITY BRANCH IN LATROBE IN WESTMORELAND COUNTY
   167 569 CR    Jul-02-84 G PA         1.19                 JEANNETTE INDUSTRIAL TRACK IN JEANNETTE, WESTMORELAND COUNTY
   167 570 CR    May-14-84 G PA          .30                 BAILEY RUN INDUSTRIAL TRAC IN CREIGHTON,ALLEGHENY COUNTY
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DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
167	571	CR	Aug-28-84	G	PA	.58			SMALLMAN STREET TRACK IN PITTSBURGH, ALLEGHENY COUNTY
167	572	CR	Aug-28-84	G	PA	.30			BET 11TH AND 14TH STREET IN PITTSBURGH, ALLEGHENY COUNTY
167	573	CR	May-14-84	G	PA	9.10			BET TEMPLETON AND RED BANK IN ARMSTRONG & CLARION COUNTIES
167	574	CR	May-15-84	G	PA	2.00			EAST BRADY INDUS TRACK IN PHILLIPSTON IN CLARION COUNTY
167	575	CR	May-14-84	G	PA	4.70			LOW GRADE BRANCH IN LAWSONHAM CLARION COUNTY
167	576	CR	Aug-09-84	G	PA	33.21			OIL CITY SECONDARY TRACK BET EMLENTON & OIL CITY
167	578	CR	Nov-06-84	G	PA	3.50			AKRON SECONDARY TRACK BETWEEN STEVENS AND AKRON IN LANCASTER COUNTY
167	579	CR	May-14-84	G	PA	25.99			OIL CITY SEC TRACK BETWEEN RED BANK AND EMLENTON IN VENANGO & CLARION
167	580	CR	May-15-84	G	PA	.42			OIL STREET INDUSTRIAL TRACK IN BEAVER FALLS,BEAVER COUNTY
167	581	CR	May-15-84	G	PA	.60			INDIAN RUN INDUSTRIAL TRACK IN NEW KENSINGTON,WESTMORELAND COUNTY
167	582	CR	May-14-84	G	PA	.50			BRUSH CREEK INDUSTRIAL TRACK IN JEANNETTE,WESTMORELAND COUNTY
167	583	CR	May-02-84	G	PA	.60			NAZARETH INDUSTRIAL TRACK IN BELFAST JUNCTION NORTHAMPTON COUNTY
167	598	CR	Jun-13-84	G	PA	1.90			E&N SECONDARY TRACK IN EASTON, NORTHAMPTON COUNTY
167	610	CR	May-31-84	G	PA	.50			HICKORY BRANCH IN BURGETTSTOWN IN WASHINGTON COUNTY
167	621	CR	Jun-13-84	G	PA	.90			NAZARETH INDUSTRIAL TRACK IN DEXTER HILL, NORTHAMPTON COUNTY
167	622	CR	Jun-13-84	G	PA	1.00			BARBERS QUARRY BRANCH IN ALLENTOWN, LEHIGH COUNTY
167	623	CR	Jul-13-84	G	PA	10.10			LEHIGHTON SEC TRACK AND IRONTON INDUS CLUSTER, LEHIGH COUN
167	624	CR	Oct-19-84	G	PA	1.80			ODENWELDER INDUSTRIAL TRACK AT EASTON, NORTHAMPTON COUNTY
167	625	CR	Jun-13-84	G	PA	6.80			CLUSTER OF LINES IN NAZARETH-PENN ARGYL-WIND GAP AREA IN NORTHAMPTON C
167	626	CR	DEC 28 '84	G	PA	3.90			INDUSTRIAL I-MINSI TRAIL FREEMANSBURG, LEHIGH-NORTHAMPTON
167	631	CR	Jul-13-84	G	PA	1.10			SIXTIETH STREET BRANCH IN PHILADELPHIA
167	632	CR	Aug-06-84	G	PA	1.00			WEST HAZLETON INDUSTRIAL TRACK IN WEST HAZLETON IN LUZERNE COUNTY
167	638	CR	Jul-03-84	G	PA	1.10			ERIE-WARREN MAIN LINE IN ERIE, ERIE COUNTY
167	639	CR	May-18-84	G	PA	2.20			GRAYS FERRY BR FROM E.SIDE OF UNV AVE NEAR ARSENAL TOWER,PHIADELPHIA
167	640	CR	May-25-84	G	PA	.80			NOSCO SPUR OFF THE PENN IRON COMPANY IN ERIE, ERIE COUNTY
167	641	CR	Sep-07-84	G	PA	.55			SMALLMAN STREET BRANCH IN PITTSBURGH,ALLEGHENY COUNTY
167	650	CR	Jun-28-84	G	PA	1.60			SUMMERHILL BRANCH IN EHRENFELD IN CAMBRIA COUNTY
167	653	CR	Jul-13-84	G	PA	.90			TRENTON AVENUE ELEVATED LINE IN PHILADELPHIA
167	654	CR	Sep-09-84	G	PA	1.10			BETHLEHEM BRANCH IN PHILADELPHIA, PENNSYLVANIA
167	655	CR	Jul-13-84	G	PA	.30			CHURCH STREET SIDING IN PHILADELHIA,PA
167	656	CR	Jul-19-84	G	PA	.40			ROXBOROUGH STREET SIDING IN PHILADELPHIA
167	657	CR	May-15-84	G	PA	.20			SLIGO RUNNING TRACK IN SLIGO, CLARION COUNTY
167	658	CR	May-25-84	G	PA	.80			WILMORE SECONDARY TRACK IN PORTAGE, CAMBRIA COUNTY
167	659	CR	May-25-84	G	PA	.73			SAMPLE RUN INDUSTRIAL TRACK IN CLYMER, INDIANA COUNTY
167	660	CR	Aug-06-84	G	PA	2.30			PHILIPSBURG INDUS TRACK AT HAWK RUN IN CLEARFIELD COUNTY
167	661	CR	May-25-84	G	PA	2.10			EUREKA 37 TRACK IN SCALP LEVEL & JANDY 40 TRACK IN CAMBRIA COUNTY
167	662	CR	May-25-84	G	PA	5.47			BEAVER SEC TRACK IN LOVETT & BEAVER INDUS TRACK IN LLOYDELL,CAMBRIA CO
167	663	CR	Jul-19-84	G	PA	1.56			CHESTER VALLEY SECONDARY TRACK IN KING OF PRUSSIA MONTGOMERY COUNTY
167	664	CR	Aug-10-84	G	PA	2.80			PLYMOUTH INDUS TRACK IN MONTGOMERY COUNTY
167	665	CR	JUN-05-84	G	PA	4.60			MANAYUNK BRANCH IN PHILADELPHIA, PHILADELPHIA & MONTGOMERY COUNTIES
167	675	CR	Jul-13-84	G	PA	1.90			CHESTNUT HILL EAST LINE IN PHILADELPHIA
167	676	CR	Jul-19-84	G	PA	6.10			CHESTER VAL SEC TRACK BET KING OF PRUSSIA & CEDAR HOLLOW IN MONTGOMERY
167	677	CR	Jul-13-84	G	PA	.63			FAIRHILL BRANCH IN PHILADELPHIA
167	690	CR	Dec-03-84	G	PA	.60			BETHLEHEM BRANCH IN PHILADELPHIA BET CAYUGA ST AND ROCKLAND ST

DOCKET	SUB	ROAD1	DECD.DATE	D	STATE.1	ST1.GRT	STATE.2	ST2.GRT	TITLE
167	693	CR	Jul-13-84	G	PA	.50			WASHINGTON AVENUE BRANCH IN PHILADELPHIA
167	694	CR	Jul-19-84	G	PA	.50			WASHINGTON AVENUE BRANCH, PHILADELPHIA COUNTY
167	695	CR	Jul-13-84	G	PA	.80			CHESTER & PHILADELPHIA BRANCH WEST OF FORT RD IN PHILADEPHIA
167	696	CR	Jul-19-84	G	PA	.40			OXFORD ROAD BRANCH IN PHILADELPHIA
167	697	CR	Jul-19-84	G	PA	1.15			OXFORD ROAD BRANCH IN PHILADELPHIA, PHILADELPHIA COUNTY
167	698	CR	Jul-13-84	G	PA	1.10			PENCOYD BRANCH IN WEST MANAYUNK, MONTGOMERY COUNTY
167	699	CR	Aug-29-84	G	PA	1.81			OXFORD ROAD BRANCH [illegible]USTER IN PHILADELPHIA
167	710	CR	Jul-13-84	G	PA	2.90			POTTSTOWN BRANCH [illegible]ERFORD,MONTGOMERY COUNTY
167	711	CR	Jul-19-84	G	PA	1.00			NUTT STREET INDUSTRIAL TRACK IN NEW CASTLE, LAWRENCE CIUNTY
167	712	CR	Aug-27-84	G	PA	[illegible]			[illegible] INDUSTRIAL TRACK AT KING OF PRUSSIA, MONTGOMERY
167	713	CR	Aug-29-84	G	PA	.30			PITTSBURG/COLUMBUS PANHANDLE, ALLEGHENY COUNTY:PA
167	714	CR	Jul-26-84	G	PA	.58			PREBLE AVENUE TRACK IN PITTSBURGH, ALLEGHENY COUNTY
167	715	CR	Jul-26-84	G	PA	1.36			THE 'O' TRACK IN PITTSBURG, ALLEGHENY COUNTY,
167	716	CR	AUG-16-84	G	PA	1.31			SHENANDOAH CLUSTER AT SHENANDOAH,IN SCHUYLKILL COUNTY
167	717	CR	Aug-09-84	G	PA	.50			POTTSVILLE BANCH IN POTTSVILLE, SCHUYLKILLL COUNTY
167	718	CR	Jun-01-84	G	PA	1.50			HILL TRACK AT NEW BRIGHTON IN BEAVER COUNTY
167	719	CR	Aug-31-84	G	PA	2.50			OLNEY RUNNING TRACK IN PHILADELPHIA
167	720	CR	Jul-13-84	G	PA	17.10			BETWEEN MORTON AND WEST CHESTER IN DELAWARE AND CHESTER COUNTIES
167	721	CR	Jul-19-84	G	PA	6.73			EAST PENN BRANCH IN READING BERKS COUNTY
167	722	CR	Jul-19-84	G	PA	.70			SPRUCE STREET BRANCH IN READING IN BERKS COUNTY
167	723	CR	Jul-13-84	G	PA	.60			HOUSTON SECCONDARY TRACK AT NEW CASTLE, LAWRENCE COUNTY
167	724	CR	Jul-02-84	G	PA	.70			ROYERSFORD, MONTGOMERY COUNTY
167	725	CR	Jul-13-84	G	PA	.68			RINGTOWN INDUSTRIAL TRACK IN BARNESVILLE,SCHUYLKILL
167	736	CR	Aug-28-84	G	PA	1.20			S.LINE OF WEIKEL ST. TO S. OF BALFOUR ST., PHILADELPHIA
167	737	CR	Jul-19-84	G	PA	2.30			WILLIAMSPORT INDUSTRIAL TRACK IN WILLIAMSPORT
167	745	CR	Jul-02-84	G	PA	3.90			AVIS BRANCH IN AVIS CLINTON COUNTY
167	747	CR	Aug-09-84	G	PA	1.04			SHAMOKIN BRANCH IN MT.CARMEL NORTHUMBERLAND COUNTY
167	748	CR	Aug-09-84	G	PA	1.50			SHAMOKIN BRANCH IN MT.CARMEL TOWNSHIP NORTHUMBERLAND COUNT
167	749	CR	Aug-09-84	G	PA	1.25			PINE FOREST BRANCH IN EAST NORWEIGH,SCHUYLKILL COUNTY
167	750	CR	Jul-13-84	G	PA	.45			HENDERSON IND TRACK AT KING OF PRUSSIA,MONTGOMERY COUNTY
167	752	CR	Aug-09-84	G	PA	.70			MANUFACTURE S BRANCH IN HARRISBURG, DAUPHIN COUNTY
167	779	CR	Aug-28-84	G	PA	16.60			BET SHAMOKIN AND SUNBURY IN NORTHUMBERLAND COUNTY
167	783	CR	Aug-09-84	G	PA	1.30			HAZELBROOK INDUS TRACK IN GOOD SPRING, SCHUYLKILL COUNTY
167	784	CR	Aug-09-84	G	PA	8.69			WEST,WEST,MUDDY,OTTO#2 COLLIERY,PHOENIX PARK,JOHN VEITH
167	854	CR	Nov-14-84	W	PA	.00	1.9 ScLD		MILL HALL BRANCH AT CASTENEA IN CLINTON COUNTY
167	879	CR	Aug-06-84	G	PA	3.30			BETWEEN MIDWAY AND KELLY IN LEBANON COUNTY
167	893	CR	Aug-06-84	G	PA	.50			N & B INDUSTRIAL TRACK IN NORTHAMPTON, NORTHAMPTON COUNTY

TOTAL CASES FROM PENNSYLVANIA : 109

TOTAL MILES GRANTED: 315.94

BEST COPY AVAILABLE

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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.CRT STATE.2 ST2.GRT                    TITLE
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XN 223   0 NPRRC Nov-02-83 G RI          5.10               NARRAGANSETT PIER RAILROAD CO.GOULDS CROSSING, PEACE DALE,WALKFIELD


 TOTAL CASES FROM  RHODE ISLAND      1
 TOTAL MILES GRANTED:       5.10


    55  95 SBD   Jan-25-84 G SC         17.32               BETWEEN FLORENCE AND PAMPLICO IN FLORENCE COUUNTY
    55 107 SBD   Sep-06-84 G SC         14.10               BETWEEN CONWAY AND MYRTLE BEACH IN HORRY COUNTY
    55 110 SBD   Jul-23-84 G SC         28.00               BETWEEN YEMASSEE AND PORT ROYAL IN BEAUFORT COUNTY
    55 111 SBD   Nov-20-84 G SC         11.86               BETWEEN IVA AND ANDERSON IN ANDERSON COUNTY


 TOTAL CASES FROM  SOUTH CAROLI      4
 TOTAL MILES GRANTED:      71.28


     2  44 LN    Jul-07-83 G TN         14.80               BETWEEN ENGLEWOOD AND TELLICO PLAINS IN MCMINN AND MONROE COUNTIES
    43 109 ICG   May-23-84 G TN         26.61               BETWEEN HUMBOLDT AND KENTON IN GIBSON AND OBION COUNTIES
XP  43 125 ICG   Sep-18-84 G TN          6.57               BETWEEN BEMIS AND POPLAR CORNER, TENNESSEE
    55 104 SBD   Apr-03-84 G TN         18.10               BETWEEN BRUSH CREEK AND PIKEVILLE IN SEQUATCHIE AND BLEDSOE COUNTIES
    55 116 SBD   Jan-22-85 G TN          7.76               BETWEEN WATRACE AND SHELBYVILLE IN BEDFORD COUN

 TOTAL CASES FROM  TENNESSEE         5
 TOTAL MILES GRANTED:      73.84


     3  41 MP    Aug-20-84 G TX          3.20               BETWEEN SWAN AND THEDFORD IN SMITH COUNTY
    12  72 SP    Jan-31-84 G TX         39.30               BETWEEN ALICE AND FALFURRIAS IN JIM WELLS AND BROOKS COUNTIES
XP  12  77 SP                TX           .00               GUY BRANCH BETWEEN GUY JCT. AND GUY IN FORT BEND COUNTY
XN  52  30 ATSF  May-21-84 G TX          9.00               BETWEEN STOWELL AND WHITE'S RANCH IN CHAMBERS COUNTY
XN  52  34 ATSF  Sep-28-84 G TX          3.00               NEAR STOWELL, CHAMBERS COUNTY


 TOTAL CASES FROM  TEXAS             5
 TOTAL MILES GRANTED:      54.50

                                                             LAKE BRANCH LINE
 XN  8   5 DRGW  JUL. 25-84 G UT         3.78               BETWEEN RICHHFIELD AND MARYSVALE IN SEVIER AND PIUTE COUNTIES, UTAH
 XN  8   6 DRGW  Aug-30-84 G UT         29.11               FILLMORE BRANCH BETWEEN DELTA AND  FILLMORE IN MILLARD COUNTY
    35   7 UP    Mar-28-84 G UT         31.76               BETWEEN HORSE CANYON AND COLUMBIA IN CARBON AND EMERY COUNTIES
   190   1 CCRC  Apr-04-84 G UT         10.00


 TOTAL CASES FROM  UTAH              4
 TOTAL MILES GRANTED:      74.65
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                              TITLE
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    18  55 CO     Jul-27-84 G VA           .52                    CAMP STUART SPUR IN NEWPORT NEWS


TOTAL CASES FROM  VIRGINIA          1
TOTAL MILES GRANTED:        .52


     6 171 BN     Dec-27-83 G WA          8.53                    BETWEEN SANPOIL AND REPUBLIC IN FERRY COUNTY
 XN  6 187 BN     Jan-09-84 G WA           .57                    NEAR MOXEE CITY IN YAKIMA COUNTY
 XN  6 188 BN     Jan-06-84 G WA          5.00 ID            3.80 BETWEEN GREENACRES,SPOKANE COUNTY,WA AND POST FALLS KOOTENAI COUNTY,ID
 XN  6 194 BN     Jan-06-84 G WA         30.00                    BETWEEN NEWPORT AND DEAN IN PEND OREILLE & SPOKANE COUNTIES
     6 197 BN     Jul-23-84 G WA         11.70                    BETWEEN BRACE AND TIETON IN YAKIMA COUNTY
     6 200 BN     AUG-09-84 G WA         16.61                    BET GRANGER AND PARKER IN  YAKIMA COUNTY
     6 201 BN     JUN-11-84 G WA         37.66                    PULLMAN JCT,WHITMAN COUNTY & GENESEE, IN NEZ PERCE & LATAAH
     6 207 BN     Jan-08-85 G WA         10.26                    BETWEEN S.ABERDEEN JCT. AND MARKHAM IN GRAYS HARBOR COUNTY
     6 214 BN     Oct-01-84 G WA          4.00 ID            3.02 BET PALOUSE,WHITMAN COUNTY, WA AND VIOLA,LATAH COUNTY,ID
     6 219 BN     Oct-16-84 G WA          5.00                    BETWEEN ROSALIA AND BALDER IN WHITMAN COUNTY
XN  37  12 OWRNC Sep-06-84 G WA          1.48                    GRAYS HARBOR BRANCH BETWEEN CENTRALIA AND BLAKESLEE JUNCTION IN LEWIS
XP 237   1 PO     Sep-12-84 G WA         61.10                    BET NEWPORT AND METALLINE FALLS IN PEND OREILLE COUNTY


TOTAL CASES FROM  WASHINGTON       12
TOTAL MILES GRANTED:     172.91


     1 138 CNW    Oct-11-84 G WI         34.60                    BETWEEN FOND DU LAC AND CLYMAN  JCT. IN FOND DU LAC AND DODGE COUNTIES
xP  57  13 SOO    Oct-15-84 G WI          3.59                    BETWEEN DOWNING IN DUNN COUNTY AND GLENWOOD IN ST.CROIX COUNTY


TOTAL CASES FROM  WISCONSIN         2
TOTAL MILES GRANTED:      38.19


XN  18  57 CO     Jul-25-84 G WV          3.41                    OPEN FORK JUNCTION AND GENTREE IN NICHOLAS AND FAYETTE COUNTIES
XN  18  60 CO     Sep-26-84 G WV           .92                    ABANDONMENT & DISCONTINUANCE BET MT.CARBON & ELKRIDE, FAYETTE COUNTY
XN  19  64 BO     Nov-28-83 G WV          2.13                    NEAR KILARM IN MARION AND HARRISON COUNTIES
XN  19  68 BO     Feb-22-84 G WV          4.70                    BETWEEN ALBRIGHT AND KINGWOOD IN PRESTON COUNTY
    19  69 BO     Jul-09-84 G WV         24.58                    OPERATION BET HENDRICKS AND ELKINS, TUCKER & RANDOLPH COUN
XN  19  75 BO     Nov-29-84 G WV          1.85                    NEAR MOUNDSVILLE, MARSHALL COUNTY
XN  19  83 BO     JUL-25-84 G WV         31.00                    BETWEEN MANNINGTON AND BOARDTREE IN MARION AND WETZEL COUNTIES
XN  19  86 BO     Sep-28-84 G WV          7.48                    BETWEEN BOLAIR AND JERRYVILLE IN WEBSTER COUNTY
XN  69  11 WM     Nov-28-83 G WV          9.91                    BETWEEN THOMAS AND GLENDRICKS IN TUCKER COUNTY
    69  14 WM     Jul-09-84 G WV         24.58                    BET HENDRICKS AND ELKINS IN TUCKER AND RANDOLPH COUNTIES
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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   167 528 CR    Apr-05-84 G WV          2.97                   NEW CUMBERLAND SECONDARY TRACK BET NEWELL AND CHESTER HANCOCK COUNTY
   167 781 CR    Oct-01-84 G WV          2.90                   TERMINAL INDUS TRACK IN WHEELING,OHIO & MARSHALL COUNTIES
   167 889 CR    Jul-02-84 G WV           .33                   HI TOP BRANCH IN CHARLETON, KANAWAHA COUNTY
   167 890 CR    Oct-01-84 G WV         19.74                   BET WELLSBURG AND BENWOOD IN BROOKE,OHIO & MARSHALL COUNTIES

TOTAL CASES FROM  WEST VIRGINI    14
TOTAL MILES GRANTED:    126.50

                                                  FY 1985 (5 months)

 DECIDED ABANDONMENT CASES BY PRIMARY STATE IMPACTED
 TOTAL OF   121 CASES DECIDED AS OF Mar-12-1985

 DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                  TITLE
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 XN 55 129 SBD   Nov-08-84 G AL          7.97                  BETWEEN BLOCKTON JCT. AND BLOCKTON, BIBB COUNTY
    55 130 SBD               AL           .00                  BET WESTERN JCT AND CORDUROY IN DALLAS,WILCOX & MONROE COUNTIES


 TOTAL CASES FROM  ALABAMA          2
 TOTAL MILES GRANTED:      7.97


     12  79 SP    Jan-16-85 W CA          .00                  BETWEEN ROCKTRAM AND KRUG IN NAPA COUNTY
 XN  12  82 SP    Dec-27-84 6 CA        10.80                  DISC OF T.R. BET CAMEO AND BELMONT IN FRESNO COUNTY
 XP  12  83 SP                CA          .00                  BETWEEN COTA AND EAST LONG BEACH IN LOS ANGELES COUNTY
 XN  72   4 SN    MAR-11-85 6 CA         9.61 > RELATED        BETWEEN CLARKSBURG AND OXFORD IN SOLANO AND YOLO COUNTIES
 XN 105   4 WP    MAR-11-85 6 CA          .00                  DISCONTINUANCE OF SERVICE HOLLAND BRANCH IN SOLANO AND YOLO COUNTIES
 XN 239   0 BRC   Dec-26-84 G CA         1.00                  IN TUOLUMNE COUNTY
 XP 241   0 AMRRC             CA          .00                  BETWEEN KORBLEX AND KORBEL IN HUMBOLDT COUNTY


 TOTAL CASES FROM  CALIFORNIA       7
 TOTAL MILES GRANTED:     21.41


 XN   6 251 BN                CO          .00                  BETWEEN BARNETT AND LYONS IN BOULDER COUNTY
 XN   6 252 BN                CO          .00                  NEAR STERLING, IN LOGAN COUNTY


 TOTAL CASES FROM  COLORADO         2
 TOTAL MILES GRANTED:        .00
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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    55 122 SBD    Jan-07-85 G FL          5.61              BETWEEN GAINESVILLE AND AIRBASE IN ALACHUA COUNTY
XN  55 125 SBD    OCT-26-84 G FL         18.00              BETWEEN LEBANON JCT. AND DUNELLON IN LEVY AND MARION COUNTIES
XN  55 126 SBD    OCT-23-84 G FL         38.17              BETWEEN PUCELL JCT. AND SHAMROCK IN TAYLOR AND DIXIE COUNTIES
XP  55 132 SBD    Dec-28-84 G FL         10.84              FORT EVERGLADES JUNCTION AND PORT EVERGLADES, IN BROWARD COUNTY
XN  55 136 SBD    FEB-20-85 G FL          5.90              BETWEEN AGRICOLA AND FT. MEADE IN POLK COUNTY
XN  55 137 SBD    Dec-26-84 G FL          1.34              BETWEEN BROCO AND LAKE STAFFORD IN HERNANDO COUNTY
XN  55 138 SBD    Jan-02-85 DS FL          .00              BETWEEN CROSS AND CALLAHAN IN NASSAU COUNTY
XP  55 140 SBD    Jan-23-85 G FL          5.40              JACKSONVILLE, DUVAL COUNTY
XP238    1 PER    Dec-28-94 G FL          1.83              BET PORT EVERGLADES AND PORT EVERGLADES BROWARD COUNTY

TOTAL CASES FROM  FLORIDA          9
TOTAL MILES GRANTED:      86.49

    55 131 SBD    FEB-26-85 W GA           .00              BETWEEN DAWSON AND NORTH ALBANY IN LEE, DOUGHERTY & TERRELL COUNTIES
XN  55 139 SBD    FEB-06-85 G GA         18.72              BETWEEN RICEBORO AND COX IN LIBERTY AND MCINTOSH COUNTIES

TOTAL CASES FROM  GEORGIA          2
TOTAL MILES GRANTED:      18.72

     7 112 MILW  Feb-11-85 W IA          .00                 OTTUMWA INDUSTRIAL AIRPORT SPUR IN OTTUMWA, WAPELLO COUNTY
     7 113 MILW  Feb-11-85 W IA          .00                 ELDRIDGE, IOWA

TOTAL CASES FROM  IOWA             4
TOTAL MILES GRANTED:      11.27

     6 229 BN    Dec-10-84 G ID         9.25                 REVLING AND HEADQUARTERS IN CLEARWATER COUNTY
XP  37  15 OWRNC             ID          .00                 BETWEEN REVLING AAND HEADQUARTERS IN CLEARWATER COUNTY
   236   1 CPR   Dec-10-84 G ID         9.25                 BETWEEN REVLING AND HEADQUARTERS IN CLEARWATER COUNTY

TOTAL CASES FROM  IDAHO            3
TOTAL MILES GRANTED:      18.50

XP  10  30 NW                IL          .00                 BETWEEN CLAY AND STREATOR
    19  90 BO                IL          .00                 DISCONTINUANCE OF TRACKAGE RIGHTS BETWEEN  DECATUR AND  BOODY, MACON C
XN  19  94 BO    Nov-13-84 G IL          .53                 SPRINGFIELD, SANGAMON COUNTY
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                         TITLE
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    167 773 CR                    IL          .00                  40TH STREET BRANCH IN CHICAGO, COOK COUNTY
    167 792 CR                    IL          .00                  PORT OF CHICAGO LINE IN CHICAGO, COOK COUNTY
    167 884 CR       Jan-28-85 G  IL         4.09                  KENSINGTON BRANCH IN CHICAGO-GARY METRO AREA COOK COUNTY
 XP 229   1 PC       DEC-10-84 G  IL        88.09                  BETWEEN PARIS AND MT. CARMEL

TOTAL CASES FROM  ILLINOIS             7
TOTAL MILES GRANTED:        93.69

      7 111 MILW     Dec-10-84 W  IN          .00                  PET FOR WAIVER OOLITIC LINE BEDFORD LAWRENCE COUNTY
     55 127 SBD                   IN          .00                  HAMMOND, LAKE COUNTY
    117   1 EJE      Dec-18-84 G  IN        20.41                  PORTER BRANCH BETWEEN GRIFFITH AND PORTER,IN LAKE & PORTER COUNTIES
    167 886 CR       Jan-28-85 G  IN          .96                  OSBORNE/PULLMAN LEAD TRACK IN  EAST CHICAGO, LAKE COUNTY
    167 893 CR                    IN          .00                  BALDWIN LEAD IN EAST CHICAGO, LAKE COUNTY
    167 906 CR                    IN          .00                  SOUTH BEND SECONDARY TRACK IN S.BEND ST.JOSEPH COUNTY
    167 907 CR                    IN          .00                  LOGANSPORT SECONDARY TRACK IN WINAMAC, PULASKI COUNTY

TOTAL CASES FROM  INDIANA              7
TOTAL MILES GRANTED:        21.37

      3  47 MP                    KS          .00                  BET HOISINGTON AND KANBRICK, IN BARTON COUNTY
      3  50 MP                    KS          .00                  BETWEEN TRICO AND MARQUETTE IN SALINE AND MCPHERSON COUNTIES
     52  36 ATSF                  KS          .00                  BETWEEN METCALF AND ANTHONY IN HARPER AND SUMNER COUNTIES
     52  37 ATSF                  KS          .00                  BETWEEN BALDWIN AND OTTAWA IN DOUGLAS AND FRANKLIN COUNTIES
    232   1 KSRC                  KS          .00                  BETWEEN METCALF AND ANTHONY IN HARPER AND SUMNER COUNTIES

TOTAL CASES FROM  KANSAS               5
TOTAL MILES GRANTED:          .00

 XN 55 123 SBD       OCT-12-84  G KY         2.46                  KNOTT COUNTY, KENTUCKY
 XP 55 142 SBD       Dec-27-84 G  KY          .50                  CAMP BRANCH SPUR NEAR SASSAFRAS IN LETCHER COUNTY

TOTAL CASES FROM  KENTUCKY             2
TOTAL MILES GRANTED:         2.96

    167 902 CR                    MD          .00                  BEAR CREEK  TRACK BALTIMORE, MARYLAND
                                                                                   12.8
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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TOTAL CASES FROM  MARYLAND          1
TOTAL MILES GRANTED:        .00

XN 57  14 SOO   Nov-26-84 G MI          2.70                 DEAD RIVER BRANCH CITY OF MARQUETTE  MARQUETTE COUNTY
  167 836 CR                  MI          .00                 SUMMIT STREET YARD AT DETROIT, WAYNE COUNTY
  167 900 CR                  MI          .00                 COMSTOCK SECONDARY TRACK IN GRAND RAPIDS, KENT COUNTY

TOTAL CASES FROM  MICHIGAN          3
TOTAL MILES GRANTED:       2.70

    6 232 BN                  MN          .00                 BRAINERD-BEMIDJI-INTERNATIONAL FALLS IN CROW WING,CASS,HUBBARD,BELTRAM

TOTAL CASES FROM  MINNESOTA         1
TOTAL MILES GRANTED:        .00

    3  49 MP                  MO          .00                 PORTION CAPE GIRARDEAU SUBDIV IN CAPE GIRARDEAU COUNTY
 XN 6 241 BN    Jan-10-85 G MO          7.62                 BETWEEN CARL JUNCTION AND J&G JUNCTION IN JASPER COUNTY
 x 39   7 SSW                 MO          .00                 TRUMANN BRANCH BETWEEN MALDEN AND GIDEON IN NEW MADRID COUNTY

TOTAL CASES FROM  MISSOURI          3
TOTAL MILES GRANTED:       7.62

    3  10 MP    Oct-24-84 G MS          1.10 LA         1.30 CAR FERR.. SERVICE BET NATCHEZ, MS AND VIDALIA, LA

TOTAL CASES FROM  MISSISSIPPI       1
TOTAL MILES GRANTED:       1.10

    6 227 BN    Nov-20-84 G MT          4.39                 BETWEEN GERBER AND LAVIN SPUR IN CASCADE COUNTY,MT
 XN 6 229 BN    OCT-24-84 G MT          3.85                 NEAR PHOSPHATE IN POWELL COUNTY
    6 230 BN                  MT          .00                 BETWEEN MANHATTAN AND ANCENEY IN GALLATIN COUNTY
    6 233 BN    JAN-07-85 G MT         45.38                 BETWEEN NEULON JCT. AND RICHEY IN RICHLAND AND DAWSON COUNTIES
  235   0 BAP                 MT          .00                 NEAR BUTTE IN DEER LODGE AND SILVER BOW COUNTIES

TOTAL CASES FROM  MONTANA           5
TOTAL MILES GRANTED:       4.39
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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   55 134 SBD     Feb-07-85 DS NC          .00 GA            BET MINERAL BLUFF, FANNIN COUNTY, GA AND MURPHY, CHEROKEE COUNTY. NC
XN 125   6 NS     Nov-05-84 G NC          1.59               BET RANDLEMAN JCT. AND RANDLEMAN IN RANDOLPH COUNTY

TOTAL CASES FROM  NORTH CAROLI     2
TOTAL MILES GRANTED:       1.59

    6 236 BN                 ND            .00               BETWEEN LINTON, ND AND EUREKA, SD
    6 237 BN     Jan-22-85 G ND          12.98               BETWEEN WESTHOPE AND ANTLER IN BOTTINEAU COUNTY
    6 245 BN                 ND            .00               BETTWEEN HUNTER AND BLANCHARD IN CASS AND TRAILL COUNTIES

TOTAL CASES FROM  NORTH DAKOTA     3
TOTAL MILES GRANTED:      12.98

    3  46 MP                 NE            .00               BETWEEN CRETE JCT AND HICKMAN IN NEMAHA,OTOE,JOHNSON & LANCASTER
    6 231 BN     Dec-28-84 G NE          73.27               BET  PALMER AND SARGGENT IN MERRICK, HOWARD, SHERMAN, VALLEY &  CUSTER
   33  26 UP                 NE            .00               DOUGLAS COUNTY. NEBRASKA
   33  27 UP     Feb-05-85 G NE          72.80               BETWEEN RIVERDALE AND ARNOLD IN BUFFALO, CUSTER & DAWSON COUNTIES

TOTAL CASES FROM  NEBRASKA         4
TOTAL MILES GRANTED:     146.07

  231   0 SIRC  Feb-01-85 G NY          3.65 NJ        13.03 IN RICHMOND COUNTY, NEW YORK AND UNION COUNTY, NEW JERSEY

TOTAL CASES FROM  NEW YORK         1
TOTAL MILES GRANTED:       3.65

   10  31 NW                 OH            .00               ZANESVILLE, MUSKINGUM COUNTY
XN 19  65 CO     Nov-09-84 G OH            .63               NEAR FOSTORIA, SENECA COUNTY
XP 19  93 BO     Nov-15-84 G OH           2.01               OLD MAINE LINE BRANCH IN MAHONING COUNTY
XN 19  95 BO     Nov-23-84 G OH           1.10               TROY, MIAMI COUNTY
XP 19  98 BO     Nov-30-84 G OH           2.34               BETWEEN SANDYVILLE & MINERAL CITY-LINDENTREE IN TUSCARAWAS & CARROLL C
XN 19 102 BO     Jan-07-85 G OH           1.00               PORTION STILLWATER BRANCH IN MONTGOMERY COUNTY
  167 600 CR                 OH            .00               EASTERN BRANCH BETWEEN STONY AND LUCKEY IN WOOD  COUNTY
XA 19  94 BO     Nov-09-84 G OH                              TAYLOR COUNTY

TOTAL CASES FROM  OHIO             7
TOTAL MILES GRANTED:       2.73
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                      TITLE
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 XN   6 239 BN    Jan-07-85 G OK         2.20                        BETWEEN QUAPAW AND CENTRAL MILL IN OTTAWA COUNTY
     52  32 ATSF              OK          .00                        BETWEEN LINDSAY JUNCTION AND LINDSAY IN  GARVIN COUNTY
 XN 102  11 MKT   MAR-08-86 G OK         7.60                        PORTION TULSA SUBDIVISION IN TULSA, TULSA COUNTY

TOTAL CASES FROM  OKLAHOMA          3
TOTAL MILES GRANTED:       9.80


      6 234 BN                OR          .00                        BET WALLA WALLA, WASHINGTON AND MILTON, UMATILLA COUNTY, OREGON
     12  80 SP    Jan-16-85 W OR          .00                        BETWEEN TALLMAN AND WILKINS IN LANE AND LINN COUNTIES
 XN  12  81 SP    Nov-13-84 G OR        12.00                        BETWEEN CARLTON AND SEGHERS IN YAMHILL COUNTY
 XP  37  14 OWRNC             OR          .00                        BETWEEN ATHENA AND WESTON IN UMATILLA COUNTY

TOTAL CASES FROM  OREGON            4
TOTAL MILES GRANTED:      12.00


 XN  19  97 BO    NOV-07-84 G PA         1.84                        PORTION B&CV'S LINE IN CUMBERLAND AND FRANKLIN COUNTIES
     19  99 BO    Jan-03-85 G PA         4.81                        BETWEEN MEYERSDALE AND WEST SALISBURY, SOMERSET COUNTY
 XN  69  19 WM    NOV-07-84 G PA          .00 RELATED TO 19-97 DISCONTINUANCE OF SERVICE IN CUMBERLAND AND FRANKLIN COUNTIES
    167 577 CR                PA          .00                        SCRANTON BRANCH IN MONROE,LACKAWANNA & WAYNE COUNTIES
    167 903 CR                PA          .00                        BETWEEN EAST LIBERTY AND ASPINWALL IN ALLEGHENY COUNTY
 XN 240   1 CI    Nov-01-84 G PA         4.13                        REXIS BUFFINGTON TOWNSHIP, INDIANA COUNTY AND ELKDALE JCT., BLACKLICK
 XP 242   0 MP                PA          .00 MD                     BET YOE, YORK COUNTY, PA AND WHITEFORD,HARTFORD COUNTY,MD

TOTAL CASES FROM  PENNSYLVANIA      7
TOTAL MILES GRANTED:      10.78


     26  29 SOU               TN          .00                        BETWEEN CORAN AND ROGERSVILLE IN HAWKINS COUNTY
     55 124 SBD   Dec-18-84 G TN        20.25                        BETWEEN COWAN AND TRACY CITY IN FRANKLIN, GRUNDY & MARION COUNTIES
     55 133 SBD               TN          .00                        BETWEEN SPINKS AND MCKENZIE IN HENRY AND CARROLL COUNTIES
     55 135 SBD               TN          .00                        BETWEEN MEMPHIS AND SHELL PLANT IN SHELBY COUNTY
 XP  65 139 SBD   FEB-13-85 DS TN         .00                        CHATTANOOGA, TN

TOTAL CASES FROM  TENNESSEE         4
TOTAL MILES GRANTED:      20.25


 XP   3  51 MP    Jan-24-85 G TX          .95                        SUGARLAND AND PRYOR IN FORT BEND COUNTY
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DOCKET SUB ROAD1 DECD.DATE D STATE.1 ST1.GRT STATE.2 ST2.GRT                    TITLE
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TOTAL CASES FROM  TEXAS            1
TOTAL MILES GRANTED:       .95


     8   8 DRGW              UT           .00                  BETWEEN THISTLE AND RICHFIELD IN SAN PETE & SEVIER COUNTIES


TOTAL CASES FROM  UTAH             1
TOTAL MILES GRANTED:       .00


XN 243   0 VBR   Dec-13-84 G VA          9.99                  BETWEEN TYE RIVER AND BUFFALO MINES, IN NELSON COUNTY


TOTAL CASES FROM  VIRGINIA         1
TOTAL MILES GRANTED:     9.99


XN   6 196 BN     Oct-17-84 G WA          7.00                 BETWEEN PALMER JCT AND VEAZEY IN KING COUNTY
XN   6 209 BN     Oct-12-84 G WA          9.91                 BETWEEN CASADE JCT. AND CARBONADO IN PIERCE COUNTY
     6 223 BN     NOV-26-84 G WA          1.74                 BETWEEN LEAVENWORTH AND OLD LEAVENWORTH IN CHELAN COUNTY
     6 226 BN     Nov-26-84 G WA         11.09                 BETWEEN ORTING AND CASCADE JUNCTION IN PIERCE COUNTY
     6 235 BN     Jan-07-85 G WA          4.62                 BETWEEN COLLEGE PLACE AND BAKER LANGDON IN WALLA WALLA COUNTY
 XN  6 238 BN     Jan-02-85 G WA         20.34                 BETWEEN OROVILLE AND CHOPAKA IN OKANOGAN COUNTY
     6 242 BN                 WA           .00                 BETWEEN WOODINVILLE AND LENMORE IN KING COUNTY
     6 243 BN     Jan-25-85 G WA         60.59                 BET COLUMBIA RIVER AND MANSFIELD IN DOUGLAS COUNTY


TOTAL CASES FROM  WASHINGTON      10
TOTAL MILES GRANTED:    114.09


XN 19  62 CO     Oct-23-84 G WV          4.21                  DISCONTINUANCE-MUD FORK BRANCH IN LOGAN COUNTY
XN 19  64 CO     Nov-09-84 G WV          1.90                  PORTION WHITMAN CREEK SUBDIVISION IN LOGAN COUNTY
XN 19  88 BO     OCT-A-84 G WV            .00                  WILLIAMS RIVER BRANCH IN WEBSTER COUNTY
XN 19  89 BO     Oct-25-84 G WV          4.75                  OPERATIONS FAIRMONT-BINGAMON BRANCH & HELENS RUN BRANCH IN HARRISON &
XN 19  94 BO     Nov-09-84 G WV          2.24                  SAND LICK BRANCH IN TAYLOR COUNTY
   19 100 BO                 WV           .00                  BETWEEN HAYWOOD AND SPELTER IN HARRISON COUNTY
   19 101 BO     Feb-05-85 G WV          6.72                  BETWEEN GASSAWAY AND SUTTON IN BRAXTON COUNTY
XN 59  17 WM     Oct-25-84 G WV          4.75                  BET HUTCHINSON & HENSHAW-HELENS RUN BRANCH NEAR CHIEFTON IN HARRISON &
  167 905 CR                 WV           .00                  HI TOP RUNNING TRACK IN BLUE CREEK OVER THE ELK RIVER IN KANAWHA COUNT


TOTAL CASES FROM  WEST VIRGINI     9
TOTAL MILES GRANTED:     24.57
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SENATOR ANDREWS: What criteria is used in deciding abandonment cases: Please list and describe.

ANSWER: The abandonment process involves a balancing of competing needs and interests. The Commission basically attempts to determine whether the burden of continuing operations on the railroad would be greater than the burden of loss of service to shippers and communities. In this process, we look at the following factors: operating viability, condition of the line, traffic trends and potential return on investment, alternative transportation availability, impact on shippers and communities, and environmental impact. All of these factors are considered as the Commission makes its decision as to whether the public convenience and necessity permits abandonment.

SENATOR ANDREWS: How widely disseminated and used is the recent I.C.C. publication "Public Participation in Rail Abandonment Cases Under the Interstate Commerce Act"?

ANSWER: Chairman Taylor announced the availability of this publication in a press release which was picked up by a wide variety of trade publications. In the 2 months since the press release, the Office of Special Counsel has received a heavy stream of telephone and written requests for this publication. In addition, copies have been sent to every member of the U.S. Senate and House of Representatives to aid congressional staffers with constituent inquiries regarding abandonments. To date, 1500 copies have been distributed and a reprinting of 1500 copies has just been received to deal with the continuing level of requests.

Public response to this publication has been very positive. The Commission has received letters and calls citing the helpfulness of the publication. In addition, numerous State transportation regulatory agencies, Federal agencies, and other groups which often face rail abandonment situations have called back after receiving one copy to request additional copies to have on hand to distribute.

CONRAIL SALE

SENATOR ANDREWS: What role will the ICC have in evaluating the Conrail sale? Has the Commission been asked to participate in or comment on the proposed merger?

ANSWER: Under the terms of NERSA, the Commission has no role in the proposed sale of Conrail. However, the Commission has just received a request from Congressman Florio to assist his Subcommittee in analyzing the traffic that would be diverted from other railroads and the ability of the two railroads that will acquire the property to be divested to compete with the new Norfolk Southern/Conrail system.

SENATOR ANDREWS: Has the Commission on its own studied or analyzed the Justice Department's caveats regarding the sale?

ANSWER: The Commission has not studied or analyzed the Justice Department's caveats regarding the Conrail sale.

SENATOR ANDREWS: The Norfolk Southern proposal is an overlay merger rather than an end to end merger. What similar mergers has the ICC reviewed and decided? What decision criteria was used in deciding the cases? What weight was assigned to the criteria?

ANSWER: The Commission recently considered proposals by the

Soo Line Railroad Company and Chicago and North Western Transportation Company to acquire the core assets of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Debtor) in Finance Docket No. 28640 (Sub-No. 9). Soo's proposal was essentially an end-to-end combination, while CNW's proposal was a parallel combination. Both proposals were found to be in the public interest.

CNW's combination was found to have anticompetitive effects in several corridors. To conform with the public interest, operating conditions were imposed to ameliorate the anticompetitive effect. The Commission expressed a preference for Soo's proposal, which did not require imposition of operating conditions.

The criteria used are set out at 49 U.S.C. 11344(b) and require consideration of the following factors: (1) effect of the transaction on adequacy of transportation to the public; (2) exclusion of other carriers in the area; (3) total fixed charges; (4) interest of carrier employees; and (5) whether the transaction would have an adverse competitive effect on competition among carriers in the affected region.

The competitive effect of a transaction is accorded the most weight. Also the Commission's policy statement in 49 C.F.R. 1100.1(c)(1) prescribes a balancing test weighing the potential benefits to the applicants and the public and the potential harm to the public from reduced competition.

TRUCKING DEREGULATION

SENATOR ANDREWS: What is the Commission's position on Federal pre-emption of State trucking regulations?

ANSWER: The Commission would prefer to see the States voluntarily adopt a model code which is consistent with Federal policy. However, if uniformity cannot be achieved in this manner, the Commission would support Federal pre-emption similar to what exists in the bus area.

SENATOR ANDREWS: Has the Administration's trucking deregulation proposal been reviewed by the Commission?

ANSWER: The Commission has not seen the Administration's current trucking deregulation proposal. Two years ago, certain members of the staff did provide the Department of Transportation with technical advice on a draft deregulation package which included freight forwarders, water carriers, and trucks. However, that proposal was never introduced by the Administration.

UNIFORM RAIL COSTING SYSTEM (URCS)

SENATOR ANDREWS: What is the current status of URCS? Please elaborate.

ANSWER: URCS is the subject of Ex Parte 431, Adoption of the Uniform Railroad Costing System for Surcharges and Jurisdictional Threshold Determinations. The purpose of that proceeding is to solicit public comment on the adoption of URCS for surcharge and jurisdictional threshold costing, as required by Staggers Rail Act of 1980. During the course of Ex Parte 431, Congress authorized one million dollars to fund the Railroad Accounting Principles Board (RAPB) for FY 1985. The purpose of the RAPB is to develop railroad accounting principles to govern the determination of costs. With this in mind the Commission issued a decision on November 13, 1984, holding the implementation of URCS in abeyance until the RAPB could complete its work.

The Comptroller General of the United States is the Chairman of the RAPB and has appointed the six members. Two meetings have been held (January 7 and March 6, 1985) and an Executive Director has been hired. On February 13, 1985, a notice was issued which represented the first action taken by the Board. By this notice, the Board requested the active participation of shippers, railroads, and other interested parties to assist in identifying the issues to be considered in satisfying its mandate to develop cost accounting principles for the railroad industry.

TRUCKING DEREGULATION

SENATOR ANDREWS: Please provide for the record a breakdown of the trucking regulatory functions you perform in fiscal year 1985 and propose to perform in fiscal year 1986. Please also show the staff and dollar resources attributable to each activity along with what activities would be eliminated under a truck deregulation bill that eliminated all but safety and consumer regulatory functions.

ANSWER: The following tables list activities related to trucking regulation currently performed by each bureau or office and the staff-years that will be devoted to each activity in fiscal years 1985 and 1986. The functions and staff-years that will be eliminated are displayed in the third column, while those that will continue to be performed after motor carrier freight deregulation are noted in the fourth column. It should be noted that time constraints did not allow us to conduct a detailed review and analysis in order to answer this question. Therefore, the savings estimates for staffing and dollars associated with deregulation should be considered preliminary. Summary charts follow the detailed tables.

EFFECTS OF TRUCKING DEREGULATION

Office of the Secretary

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Insurance Records	5	5	0	5
Docket Files	11	11	9	2
Clearing Decisions	3	3	2	1
Notices and Decisions	6	6	6	0
Pleadings	8	8	6	2
Applications and Fees	9	9	7	2

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Reference Services	1	1	0	1
Mail Handling	9	9	7	2
Total Staff-years	52	52	37	15
Total Dollars (in thousands)	$1,755	$1,833	$1,304	$529

This display assumes that there is no motor freight licensing function, that safety compliance includes monitoring insurance compliance of the carriers, and that publication of the ICC Register could be eliminated. The other functions would remain, but at the lower staffing levels necessary to perform activities as they relate to safety and consumer regulatory functions.

Office of the General Counsel

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Rulemaking	2.5	2.0	2.0	0
Rate Matters	2.0	2.0	1.5	0.5
Licensing Cases	2.5	1.0	.5	0.5
Staff-Years	7.0	5.0	4.0	1.0
Total Dollars (in thousands)	$432	$389	$324	$65

Rulemaking activities consist of advising the Commission on rate bureau, ratemaking, and licensing rules, and in litigating court challenges to Commission decisions. With deregulation of motor freight carriers, rulemaking activities for motor freight carriers would be eliminated.

Rate matters consist of providing advice on cases to the Commission and handling court challenges. In addition, the Office advises the Commission and handles court challenges in licensing cases. After motor freight carriers are deregulated, these activities will be limited to rail and bus cases.

Office of Proceedings

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Rate complaints, investigations and exemptions	1	1	-	1
Intrastate bus rates/exit	4	4	-	4
Rate bureau investigations	3	1	-	1
Mergers and acquisitions	6	5	4	1
Transfers	3	2	1	1
Finance temporary authority	1	1	-	1
Permanent freight licensing	49	44	36	8
Bus entry licensing	4	3	-	3
Freight forwarder/broker licensing	3	3	3	0
Restriction removal	1	1	-	1
Operating rights appeals	1	1	1	0
Court remands	2	2	1	1
ETA & TA appeals	1	1	1	0
Petitioned proceedings	1	1	1	0
Rulemaking and analysis	6	4	3	1
Consumer assistance	2	1	-	1
Review Board	4	4	4	0
Administrative support	4	3	2	1
Total Staff-Years	96	82	57	25
Total Dollars (in thousands)	$5,251	$4,670	$3,246	$1,424

An analysis of the Motor Section's anticipated workload and the assumptions underlying the estimated resource figures follows:

Rate complaints, investigations, and related exemptions.

Regulation of freight carrier rates and ratemaking would be eliminated, but there still would be passenger carriers filing rate related exemption requests. The entire workload in this area would consist of these bus company filings.

Intrastate bus rates and exit.

There would be no change in bus regulation as now implemented under the Bus Regulatory Reform Act of 1982, so the workload and staff resources necessary to accomplish it would remain the same.

Rate bureau investigations.

Assuming an immediate end to motor carrier antitrust immunity is part of the deregulation bill, the only resources in this area would be devoted to investigations of the bus rate bureau(s).

Finance proceedings (mergers and acquisitions, transfers, and motor finance temporary authority).

This work would still include consideration of the financial transactions of passenger carriers.

Bus, freight forwarder, and broker entry licensing and restriction removals.

All licensing activities pertaining to passenger and household goods carriers, brokers, and forwarders would remain unchanged, and the resources devoted to them would remain unaffected, as would those in the restriction removal area. Eight staff-years are reflected for licensing of foreign carriers under the Motor Carrier Safety Act of 1984.

Court remands.

Work in this area should decline as operational fitness and public need issues in property carrier cases are no longer litigated. However, there would still be decisions in the passenger carrier area that would be challenged in court, and undoubtedly Commission rulemakings and policy decisions in response to new legislation would be subject to court review.

Rulemaking and analysis.

This is the one area where we expect to have to increase staff resources in the first year after enactment of new legislation. A new statute would generate the need for a number of rulemakings to implement its provisions. However, after the first year, one staff-year should cover the bus and household goods rulemaking activities.

Consumer assistance.

New legislation would not decrease correspondence, inquiries, and requests for information, and would require advice and assistance on the changes.

Office of Hearings

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Total Staff-years	0.5	0.3	0.3	0
Total Dollars (in thousands)	$32	$21	$21	$0

In the Office of Hearings, the main truck regulatory function to be performed in FY 1985 and proposed to be performed in FY 1986 deals with handling adjudications concerning issues dealing with motor carrier fitness. After enactment of legislation deregulating trucking, the office would continue to adjudicate only rail and bus cases.

Office of Special Counsel

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Bus Intrastate Rate Cases and Abandonments	2.0	2.0	0	2.0
Total Staff-years	2.0	2.0	0	2.0
Total Dollars (in thousands)	$140	$143	$0	$143

The Office of Special Counsel devotes a very insignificant amount of time to motor carrier freight regulatory functions. None have been performed in FY 1985, and none are anticipated either for the balance of FY 1985 or for FY 1986.

Office of Transportation Analysis

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Economic Studies/Surveys	.3	.4	.4	0
Legislative Support	.1	.2	.2	0
Rulemakings/Case Support	.1	0	0	0
Public Assistance	.1	0	0	0
Total Staff-Years	.6	.6	.6	0
Total Dollars (in thousands)	$54	$62	$62	$0

The increases in the FY 1986 resource allocations for Economic Studies/Surveys and Legislative Support are based on the expectation that introduction of a truck deregulation bill will increase the time for monitoring, evaluation, and responding to Congressional requests.

The above activities and resource requirements would be completely eliminated under a truck deregulation bill that eliminated all but safety and consumer regulatory functions, unless the bill included a provision mandating impact monitoring by the Commission.

Bureau of Accounts

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Rate Case Support	3	2	2	0
Data Integrity	17	13	13	0
Total Staff-Years	20	15	15	0
Total Dollars (in thousands)	$1,228	$977	$977	$0

The Bureau of Accounts does not have resources committed to motor carrier safety and consumer regulatory functions. Therefore, truck deregulation would eliminate all of this Office's motor carrier activities.

Bureau of Traffic

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Maintain tariff library	37	38	33	5
Examine tariffs	6	1	0	1
File tariff-related documents	3	3	3	0
Public assistance	2	2	1.5	.5
Special tariff authority applications	3	3	2	1
Participate in rate cases	3.25	6.25	4.75	1.5
Tariff interpretations and certifications	6.5	6.25	4.25	2
Rate and tariff analysis for investigation and enforcement actions	2.5	2.5	1.0	1.5
Rulemakings and special projects	1.5	0.5	0	.5
Total Staff-Years	64.75	62.5	49.5	13.0
Total Dollars (in thousands)	$2,824	$2,637	$2,050	$587

None of the functions would be completely eliminated unless there is complete deregulation of the household goods and passenger motor carrier industries. The staff resource requirements in the far right column are based on several assumptions: (1) elimination of the tariff publishing and filing requirements for all motor carriers of property other than household goods; (2) retention of the statute of limitations for settlement of overcharge and undercharge claims on motor carrier transportation services for the three-year period from the date of the new statute; and (3) continued regulation of the household goods and passenger motor carriers.

For the three-year period following the effective date of the new statute, there will continue to be "hold-over" functions (such as, maintenance of the tariff library and assistance in the settlement of disputes over the application of tariff provisions, rates, and charges which were in effect before the new legislation passed). These activities would "wind down" and eventually be terminated after expiration of the statute of limitations, except for those matters involving household goods and passenger motor carriers.

Office of Compliance and Consumer Assistance

	FY 1985	FY 1986	Resources and Functions Eliminated	Resources After Trucking Deregulation
Rulemakings	2	1	.5	.5
ETA/TA Licensing	22	18	17	1
Revocations	2	2	1	1
Inquiries	25	24	21	3
Interpretations	1	0	0	0
Outreach	1	1	1	0
Complaints	28	27	24	3
Insurance	20	20	16	4
Road Checks	3	3	1	2
Fitness Reviews	4	2	1.5	.5
Surveys/Projects	38	29	20	9
Rate Bureau Reviews	5	5	4	1
Investigations	63	63	54	9
Litigation	20	21	18	3
Admin. Support	3	3	1	2
Total Staff-Years	237	219	180	39
Total Dollars (in thousands)	$12,411	$12,020	$9,879	$2,141

This response is predicated upon the assumption that motor carrier deregulation will not reach to household goods and passenger carriers, and that some form of regulation, including entry control and insurance, as well as consumer assistance responsibilities will remain with respect to these types of carriers.

On this basis, listed in the first two columns are the motor related functions and staff resources that are applicable for FY 1985 and proposed for FY 1986. The third column shows the functions and staff resources eliminated, assuming that the transportation of property by motor carrier (not rail) is totally deregulated. The fourth column represents the resources needed to continue performing bus and household goods activities.

SUMMARY CHART

(Staff-Years)

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Secretary	52.0	52.0	37.0	15.0
General Counsel	7.0	5.0	4.0	1.0
Proceedings	96.0	82.0	57.0	25.0
Hearings	.5	.3	.3	0
Special Counsel	2.0	2.0	0	2.0
Transportation Analysis	.6	.6	.6	0
Accounts	20.0	15.0	15.0	0
Traffic	64.8	62.5	49.5	13.0
Compliance and Consumer Assistance	237.0	219.0	180.0	39.0
Total Staff-Years	**479.9**	**438.4**	343.4	**95.0**

FUNDS

(dollars in thousands)

	FY 1985	FY 1986	Resources/ Functions Eliminated	Resources After Trucking Deregulation
Secretary	$1,755	$1,833	$1,304	$529
General Counsel	432	389	324	65
Proceedings	5,251	4,670	3,246	1,424
Hearings	32	21	21	0
Special Counsel	140	143	0	143
Transportation Analysis	54	62	62	0
Accounts	1,228	977	977	0
Traffic	2,824	2,637	2,050	587
Compliance and Consumer Assistance	12,411	12,020	9,879	2,141
Total Dollars	**$24,127**	**$22,752**	**$17,863**	**$4,889**

COLLECTIVE RATEMAKING ON SMALL SHIPMENTS

SENATOR ANDREWS: Provide for the record a summary of the Commission's actions on the proceeding to withdraw antitrust immunity for collective ratemaking on small shipments.

ANSWER: In response to a petition jointly filed by two shipper associations, the Commission initiated the proceeding in Ex Parte MC-172, Withdrawal of Antitrust Immunity for Collective Ratemaking on Small Shipments, to consider whether to withdraw antitrust immunity for collective ratemaking by motor carriers of property on rates applicable to shipments under 1,000 pounds. The Commission solicited comments on the proposal and on whether immunity should be withdrawn from other areas of rate bureau activity, or perhaps withdrawn altogether.

The Commission held oral argument in the proceeding on June 26, 1984, and, at an open voting conference on August 9, 1984, considered the matters that had been presented at the oral argument and the written comments that had been filed previously. The Commission then voted to deny the petition and to accept a staff recommendation that immunity should not be withdrawn for all freight carrier ratemaking activities. It found that the record did not support either course of action and voted to certify the record to the House Committee on Public Works and Transportation and to the Senate Committee on Commerce, Science, and Transportation. The Commission's written decision was entered November 27, 1984, and served December 13, 1984.

COMMISSION SUNSET

SENATOR ANDREWS: Some legislators and the House Republican Research Committee have proposed ICC sunset. Has the Commission studied the possibility of its sunset?

ANSWER: The Commission has not formally studied the possibility of sunset. We expect that legislation to deregulate motor freight carriers will be introduced later this session. If enacted, such legislation is likely to have a significant impact on the scope of ICC activities and the size of our workforce after fiscal year 1986. The impact of such legislation on the agency will be addressed in the Managing Director's reorganization proposals to the Commission.

However, passage of motor freight deregulation alone will not necessarily dictate sunset of the ICC. From all indications, regulatory responsibilities for the railroads, as well as for household goods carriers and intercity bus carriers, will continue in the forseeable future. As long as these regulatory functions must be continued, there will be a need for an agency such as the ICC to perform them. Whether these responsibilities should continue to be fulfilled by the ICC or by some other regulatory body is for the Congress to consider and decide.

SENATOR ANDREWS: Can the consumer protection functions and safety functions be transferred? To whom?

ANSWER: While we favor total economic deregulation of the trucking industry, we believe that safety and insurance requirements should remain intact. Also, some consumer-type protections for household goods shippers should remain, and the matter of continued liability standards for loss and damage of freight needs to be seriously considered. These are the areas where some form of public protection needs to be retained, although the functions do not necessarily have to be performed by the ICC. For example, safety and insurance matters could be delegated to the Department of Transportation (DOT) and the consumer protection functions could be delegated either to the Federal Trade Commission or to DOT.

SEPARATE EXPRESSION OF COMMISSIONER SIMMONS

I do not believe that total economic deregulation of the trucking industry can be discussed meaningfully without more specific reference to which consumer protection and safety functions will be retained and how and where they will be performed. For this reason, I am not prepared to state unqualified support for such deregulation at this time.

I also wish to indicate my strong belief that consumer protection and safety functions can best be performed by the ICC whether or not further economic deregulation takes place.

MERGERS

SENATOR ANDREWS: What has been the competitive effect of the CSX and American Commercial Barge Lines merger? Please elaborate.

ANSWER: Since the acquisition was consummated less than six months ago, we have seen no indication of increased or decreased competition. However, since the acquisition should allow for more efficient operations, competition may be enhanced. Nevertheless, in order to assure the continuation of competitive markets, the Commission imposed oversight conditions that will allow monitoring of the transaction and its impacts over the next several years.

GRAIN-HAULING

SENATOR ANDREWS: The Bureau of Labor Statistics in its Rail Grain Rate Index said that rates have increased post-Staggers. What does the ICC's data suggest?

ANSWER: The Commission does not maintain an ongoing rate index for specific commodities. Our staff has no disagreement with the overall upward trend in the Bureau of Labor Statistics' index of grain rates. However, because of flaws in the BLS index methodology, staff believes that the index overstates the rate of increase. The major flaw in the BLS index is that it merely reflects the increases applied to published tariff rates from a standard set of origins without regard to volumes moving from such origins or the impact of contract rates from such origins. In late 1984, approximately 41 percent of all grain was moving under contracts on confidential rates and terms. Also, it is not possible to accurately identify traffic moving under contracts from standard data sources such as the Commission's one percent waybill sample.

SENATOR ANDREWS: What has been the effect of contract rates on grain hauling? (By commodity, by size of shipper, by region, by size of railroad).

ANSWER: Grain/grain products continue to be one of the most active commodity groups in railroad contracting. As of March 31, 1985, the Commission has received approximately 24,000 contracts; approximately 15 percent, or 3,600, apply on grain/grain products. In recent months, grain/grain product contracting has been quite active. For example, in January-February 1985, of the 1,460 contracts received, 256 or 18 percent applied on grain and 112 or 8 percent applied on grain products.

A recent railroad survey for the three-month period of September-November 1984 showed that 41 percent of all grain tonnage was moving under contract. In January-February 1985, the most active rail carriers filing grain/grain product contracts have been the Santa Fe (28 of a total of 61 contracts), Burlington Northern (70 of 180), Milwaukee (12 of 28) Missouri-Kansas-Texas (27 of 49).

Because of the sheer volume of confidential contracts being filed and the general commodity descriptions used in many grain contracts that apply on all grains, the Commission does not maintain ongoing analyses of grain contracts by specific commodity, size of shipper, region and size of railroad. Also, because of the diversity of contract features such as multiple origins and destinations, volume commitments, refunds/allowances, adjustable rates and penalty clauses, only the individual railroads and contracting shippers know the final freight charges, volume and shipping patterns of specific grains moving under their contract. The Office of Transportation Analysis study attempted to determine the impact of contracting on grain in its March 13, 1984, publication, Report on Railroad Contract Rates Authorized by Section 208 of the Staggers Rail Act of 1980. However, both the National Grain and Feed Association and the National Council of Farm Co-Operatives, which together represent most of the grain firms in the United States, elected not to participate in that study.

In December 1983, Chairman Taylor and Secretary Block of the U.S. Department of Agriculture signed an agreement allowing USDA limited access to confidential contract information or grain contracts for the purpose of studying the relationship between railroad grain contracts and prices paid to farmers. Pursuant to USDA instructions, ICC personnel provided USDA with information on approximately 200 grain contracts that applied from Kansas origins. USDA will be using this information in conjunction with a co-operative study by Kansas State University on the general impact of rail deregulation on the marketing of Kansas wheat. A USDA report is expected to be out in the summer of 1985.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

CONRAIL ABANDONMENT IN NEW YORK

SENATOR D'AMATO: How does the rejection of the property owners' petition square with ICC rules providing for petitions to reopen at any time (49 CFR §1115.4)?

ANSWER: The Commission's general rules regarding petitions to reopen administratively final actions at 49 C.F.R 1115.4 do not apply to abandonment proceedings. See 49 C.F.R. 1152.25(e)(1). Instead, the Commission has developed individual appellate rules governing abandonments. Altnough there is a rule permitting petitions to reopen administratively final abandonment actions, that rule is governed by the Commission's announced policy not to review proceedings involving offers of financial assistance. At the same time as the appellate rules were developed, the Commission found that Congress provided for finality in developing the offer of financial assistance process. The Commission stated that "these determinations will not be considered proper subjects of administrative appeal. A party's only remedy if dissatisfied with our decision is to seek judicial review..." See Abandonment of R. Lines & Discontinuance of Serv., 365 I.C.C. 249, 261 (198[illegible]).

In rejecting the petition to reopen, the staff noted this policy and the fact that the decision was administratively final. The letter also pointed out that the Commission's decision had in fact been taken to court. The Special Court of the Regional Rail Reorganization Act of 1973 is reviewing the matter in State of New York Department of Transportation, et al. v. Interstate Commerce Commission and the United States of America (Civil Action No. 85-1).

To the extent the agency has discretion to allow intervention and a reopening of a proceeding, the Commission's discretion was soundly exercised in rejecting Chelsea Property Owners' (Chelsea) petitions. The Administrative Procedure Act at 5 U.S.C. §554(c) provides that interested persons should have an "opportunity" to participate in agency proceedings. (It does not guarantee the right of participation at any time.) The property owners composing Chelsea had the same opporunity that New York Department of Transportation had, but Chelsea chose not to participate. They waited and only petitioned to intervene after the Commission's final decision and after the case was in court and all principal briefs were filed. See, Nader v. Nuclear Regulatory Commission, 513 F. 2d 1045, 1054 (D.C. Cir. 1975). To reopen and protract the agency proceeding clearly would have contravened the mandate of the Northeast Rail Service Act for expeditious administrative resolutions of offers of financial assistance and could have improperly interfered with the Special Court's exercise of its jurisdiction in reviewing the case already before it. See, American Lines v. Black Ball Freight Express, 397 U.S. 532 (1970); United States v. Transp. & Leasing Corp., 444 U.S. 4 (1979).

Finally, it should be noted that the central issue raised in the petition, the financial ability of the West Side Rail Development Foundation to acquire and operate the line, had already been the subject of an appeal and a petition to stay filed by New York State Department of Transportation. Both pleadings were denied after a careful consideration of the arguments and the record. Thus, the question of the Foundation's financial responsibility had been raised and fully considered by the Commission.

SENATOR D'AMATO: The decision to approve the Foundation's offer was made rather hastily. In this instance, the offer of assistance was made on the last business day before the 90-day abandonment period was to have expired, and the approval came a week later. I understand that the Northeast Rail Services Act (NERSA) requires abandonment applications to be granted within 90 days, but certainly an offer of financial assistance should be scrutinized before it is approved. Would you explain the ICC's procedures for reviewing offers of financial assistance in Conrail abandonment proceedings? In addition, please detail whether the ICC evaluates an abandonment or offer of financial assistance differently when Conrail owns the land versus when it merely has an easement?

ANSWER: The procedure followed in this proceeding is representative of the Commission's experience with offers filed for Conrail lines under NERSA. It is not unusual for offerors to wait until the 90th day to make an offer. In fact, the Commission was aware of this tendency and thus it determined not to issue the certificate authorizing abandonment until after the 90th day so that persons filing up to the last minute provided by Congress would have an opportunity to have their offers considered. See Conrail Abandonments Under NERSA, 365 I.C.C. 472, 476 (1981).

In issuing our decisions determining whether an offer is bona fide we attempted wherever possible to comply with the statute. In NERSA, Congress directed us to rely on 49 U.S.C. 10905(d)-(f) in handling offers of financial assistance. Section 10905 permits offers to be filed within 10 days of publication of a Commission decision authorizing a regular abandonment, but it also requires the Commission to issue its decision finding an offer bona fide within 15 days of publication. Thus, Congress has provided the Commission with a total of 5 calendar days to examine the contents of an offer, determine whether it is bona fide, and issue its decision. In analyzing offers for Conrail lines the Commission has attempted, wherever possible, to comply with that same 5 day period. Accordingly, when we received the Foundation offer we carefully, but quickly, analyzed it to determine whether it complied with the standards. Finding that it did, we issued a decision finding the offer bona fide.

It must be noted that the Commission has interpreted the statute as encouraging offers of financial assistance. It is our opinion that Congress wanted us to be extremely lenient in considering these offers because the alternative was a total loss of rail service. Thus, we stated that these offers need not be detailed, they need only show, "(1) that the offeror is financially responsible, and (2) that the offer is reasonable because it approximates the proposed purchase or subsidy amount...." Id. In this case, the Foundation submitted evidence that it had received financial commitments from financially responsible parties in an amount more than adequate to cover the purchase, rehabilitation, and operating costs. As to the amount of the offer, the Foundation offered $10, which was greater than Conrail's estimated net liquidation value of $0. Although these two findings were sufficient to allow for negotiations, the Commission's decision proceeded to address objections filed by the New York State Department of Transpoortation. Having found those objections without merit, the Commission authorized the negotiations.

The question of whether the land is owned or held in easement is not of great relevance under NERSA. If no offer were filed, abandonment must be authorized no matter what the condition of ownership. If an offer is filed, the offeror must make an offer adequate to cover the fair market value of the property. However, it is true that if the property is not owned by the abandoning carrier, and therefore not transferred with the sale, a lower purchase price will probably be reasonable.

SENATOR D'AMATO: As I understand it, there is a serious question whether the West Side Development Foundation, the non-profit corporation which seeks to acquire the elevated line, has sufficient funds and financial backing to reinstate and maintain rail service. If that is true and the Foundation can't restore or maintain freight service, what will the ICC do to ensure that the obligation to dismantle the track and structure contained in the easement will be fulfilled in the event of abandonment. Would requiring a bond to protect against the possible failure of the Foundation's project be an option?

ANSWER: Under the statute, the Foundation has an obligation to operate this line for a minimum of two years after it consummates the acquisition. If, after that time, the Foundation seeks to abandon the line, it must first receive Commission approval to abandon. At that time, the Commission may, if it sees fit, impose any condition on the abandonment required by the public interest. In the past, various conditions have been imposed to protect the environment, including conditions dealing with the dismantling of tracks and structures. It is premature to now consider what, if any, action may be taken when, and if, the Foundation seeks to abandon the line. However, there does appear to be a serious public interest argument against requiring any bond against future failure. The purpose of the offer of financial assistance program is to encourage potential operators to acquire rail lines that would otherwise be abandoned. To impose a bond requirement on potential offerors would clearly lessen the amount of interest and the ability of otherwise financially sound parties to acquire and operate these properties.

SENATOR D'AMATO: The Foundation plans to subsidize rail freight operations by activities such as a jogging path, refreshment stands and scenic tourist rides. What investigation did the ICC make into whether those activities are physically possible or legal under the terms of the easements granted Conrail by New York City?

ANSWER: Under the statute these issues are not germane to the offer of financial assistance process. Accordingly, they were given no consideration by the Commission. However, it must be noted that (1) the Foundation was found financially responsible without a need to resort to these activities, and (2) any revenues obtained through these activities will assist the Foundation in its efforts to provide rail service over this line.

SENATOR D'AMATO: Conrail has recently sold properties that may require demolition to two non-profit corporations for almost no money at all--the freight line in New York City, and a railroad bridge in Poughkeepsie, New York. Doesn't the ICC have a special obligation to carefully review the capability of a non-profit corporation to fulfill the responsibilities under NERSA of a person making an offer of financial assistance.

ANSWER: The Commission has a responsibility to carefully review the ability of all offerors, whether they are or are not non-profit corporations, to make sure they can fulfill the responsibilities envisioned by the statute. However, those responsibilities begin and end with providing a continuation of rail freight service. The statute does not mention or even consider the possible need of an acquiring party to demolish structures in the future. As long as the offeror has the funds needed to acquire the line and operate it for two years, the Commission must find the offer to be reasonable.

QUESTIONS SUBMITTED BY SENATOR CHILES

COAL RATES

SENATOR CHILES: Since the Staggers Act was passed in 1980, some utilities and coal shippers have argued that new rate flexibility provided to the railroads is too great and they are consequently being gouged by large rail rate increases. Since the Staggers Act passed, rail rates have increased 27.8% and electric utility rates have increased 43.5%.

In your opinion, have the railroads been gouging the coal companies and the utilities? Do you believe the railroads' coal rate increases after Staggers are chiefly responsible for the significant electrical utility increases that we have seen in the past few years?

ANSWER: We do not believe that the word "gouging" is an appropriate description of what has happened. "Gouging" implies that one is using a competitive advantage or the lack of competition to charge rates that are excessive in relation to the cost of providing the service. There is no evidence of this.

According to the Bureau of Labor Statistics, since 1980 railroad rate increases for coal have gone up, on an actual basis, only marginally higher than the rate of inflation. Nationally, coal rates have not gone much higher than inflation, which would tend to indicate that "gouging" is not going on.

SALE OF CONRAIL

SENATOR CHILES: The return of Conrail to the private sector was authorized by The Northeast Rail Service Act of 1981 (NERSA). Under the terms of NERSA, what is the role of the ICC in the proposed sale of Conrail?

ANSWER: Under the terms of NERSA, the Commission has no role in the proposed sale of Conrail. However, the Commission has just received a request from Congressman Florio to assist his Subcommittee in analyzing the traffic that would be diverted from other railroads and the ability of the two railroads that will acquire the property to be divested to compete with the new Norfolk Southern/Conrail system.

SENATOR CHILES: Did the ICC advise either the DOT or the Justice Department on the proposed sale of Conrail to the Norfolk Southern?

ANSWER: The ICC did not advise either the DOT or the Justice Department on the proposed sale of Conrail to Norfolk Southern.

SENATOR CHILES: In the legislation introduced by Senator Danforth to permit the sale of Conrail, there is the following provision: "Such implementation of the Secretary's plan and the coordinated operation of the Corporation's properties with those of Norfolk Southern Corporation and its affiliates is deemed approved by the Commission under Chapter 113 of Title 49, United States Code." What is Chapter 113 of Title 49, United States Code?

ANSWER: Chapter 113 of Title 49, United States Code, deals with finance matters between railroads. In particular, subchapter III sets out the grounds for ICC review of carrier combinations.

Specifically, carriers cannot combine without prior Commission approval under 49 U.S.C. 11343(a and b). The Commission can approve a combination of Class I railroads (railroads with revenues in excess of $50 million) if it is consistent with the public interest under 49 U.S.C. 11344(b). If the ICC approves a consolidation under these standards, the transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let the person carry out the transaction. 49 U.S.C. 11341(a).

SENATOR CHILES: Would enactment of this provision into law grant antitrust immunity to the merged NS/Conrail?

ANSWER: Enactment of this provision into law would, in our opinion, grant antitrust immunity to the merged NS/Conrail under 49 U.S.C. 11341(a).

SENATOR CHILES: What is the process that would be followed if the merger of Conrail and Norfolk Southern were handled in the normal manner, as a merger application from two class I rail carriers?

ANSWER: The process that would be followed if the merger of Conrail and Norfolk Southern were handled in the normal manner is described in the following paragraphs.

In processing a railroad consolidation application, the Commission follows its statute (49 U.S.C. 11343-11345) and its regulations (49 C.F.R. Part 1180). These contain the underlying procedural guidelines and substantive criteria that are used in ruling on an application.

Prior to filing an application, consolidating railroads are required to give the Commission between 3 and 6 months' notice. The Commission publishes notice in the Federal Register to alert any interested parties that the combination will be submitted to the Commission for approval.

The next step involves the filing of the application. The application contains general background information on the consolidating companies. It also specifically describes the transaction. The application also contains the plans of the combining railroads for their new operation.

The keystone of this information is the market impact analysis. This contains information on the impact of the proposal on other carriers, the markets served by the consolidating system,

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and competition in general. An operating plan for the new rail system is then submitted based on proposed efficiencies and additional traffic projected by the market impact analysis. The railroads then submit financial statements taking into account the changes in their financial condition brought about by the operating plan and the traffic that they project that they will capture in the market impact analysis. All of this information is supported by sworn testimony that is publicly available.

The applicant railroads send their application to anyone who requests a copy. The Commission also publishes a notice in the Federal Register to notify the public that the application has been filed, and to give them an opportunity to comment on the proposal. At this time, the Commission also issues a procedural schedule.

Anyone who opposes or supports the proposed consolidation is given an opportunity to present evidence supporting their position and contradicting the evidence submitted by the applicant railroads. One of the main areas of controversy is the competitive effect of the combination, particularly the amount of traffic that the new system will divert from other carriers. These parties also submit requests for conditions that allegedly will either ameliorate the harm to individual competitors, or to competition that would result from the combination. In major cases, the parties are permitted to cross-examine witnesses at oral hearings.

After the opposition has presented its case, government agencies are permitted to present testimony on the same issues. Then the applicant railroads are permitted to present rebuttal testimony. All of this evidence is publicly available and is subject to cross-examination.

Following completion of the evidentiary phase, briefs are filed. The Commission then usually holds oral argument and a public voting conference to decide the case. This whole process may take up to 31 months, although the Commission has generally decided these cases in around 18 months. In the Santa Fe/Southern Pacific case now pending, which, like Conrail/Norfolk Southern, involves some parallel lines, we expect more time than this will be needed. The application was filed in March 1984, and the evidentiary record is not yet complete.

The Commission can only approve a rail consolidation if it finds that the consolidation is consistent with the public interest. Factors that the Commission considers include: (1) adequacy of transportation to the public; (2) inclusion of other railroads in the combined system; (3) coverage of fixed debt and equity; (4) employee impact; (5) competitive impacts; and (6) energy and environmental impacts. The Commission also considers the fairness of any labor protection to employees, the fairness of the price of stock to shareholders, and the overall financial viability of the entity.

The two most important factors considered by the Commission are generally adequacy of transportation and competition. In considering adequacy of transportation, the Commission evaluates the public benefits that will result from the combination. These are usually efficiencies that will result in savings to the public instead of just profits to the new system. The competitive analysis considers parallel impacts in corridors and at common points, end-to-end impacts on source competition and traffic diversion (including impact on other railroads and essential services for shippers), conglomerate effects of the combination, and effects on specific commodities. This includes looking at competitive alternatives including rail, motor, barge, or source competition.

If competitive harm is found, the Commission analyzes any conditions that have been requested to ameliorate that harm. If conditions are imposed, the Commission then balances the competitive impact against the public benefits to determine whether the combination should be approved.

QUESTIONS SUBMITTED BY SENATOR PRESSLER

SUPPLEMENTAL REQUEST

SENATOR PRESSLER: Do the Administration and OMB fully support this supplemental request?

ANSWER: The Administration, through the Office of Management and Budget, has fully supported the ICC's FY 1985 Supplemental Request.

SENATOR PRESSLER: In my opening remarks, I mentioned my concern about lack of adequate field operations without this added funding. Is that concern well founded? To what extent will field operations be cut back--for instance, could we expect the same type of assistance in South Dakota if there was another abandonment attempt similar to the one I mentioned?

ANSWER: Field operations will be curtailed if the supplemental appropriation is not approved for FY 1985. The Commission's emergency spending plan, designed to ensure compliance with the $48 million funding level, will require furloughing all field employees one day each week (or 2 days each biweekly pay period) starting April 14, 1985, and continuing for the balance of the fiscal year. This amounts to a 20 percent loss of staff-hours for that period. It will curtail public assistance activities and reduce the amount of compliance and enforcement activities which can be conducted.

Every effort will be made to keep current the processing of applications filed by motor carriers for emergency temporary and temporary authority, as well as monitoring carrier compliance with insurance requirements. Concentrating on these activities will cause further delays or reductions in other work activities. There will be a 30 percent drop in the number of compliance surveys completed, and an estimated 20 percent drop in investigations in high emphasis areas. In the areas of low enforcement priority, there is expected to be a much greater reduction, 50 percent or more. Backlogs are expected to develop in complaint handling, and no roadchecks will be conducted.

The impact described above will apply to all States. In the event of a rail abandonment proceeding, the Office of Special Counsel will offer assistance to a community and/or other parties by telephone, but travel funds will not be available to visit those locations. By the same token, there will be no oral hearings in the field, as most cases will be handled on a written record, by modified procedure. These restrictions will result in the Special Counsel's Office assisting fewer individuals to prepare and submit their pleadings in abandonment proceedings.

SENATOR PRESSLER: What measures has the ICC taken to tight its belt during this period?

ANSWERS: At the beginning of fiscal year 1985, the ICC was operating at a $54 million level, consistent with the President's Budget Request. The funding level of $48 million set by the Continuing Resolution left the agency $6 million short of its spending rate at the start of the fiscal year. Within two weeks after the Continuing Resolution was approved, the Commission developed, approved, and implemented an action plan which placed a freeze on hiring from outside the agency, sharply curtailed all discretionary non-personnel expenditures, and required a reduction in the use of office space and telecommunications.

In view of the devastating effect the $48 million funding level would have on agency operations, the Commission also voted to request a supplemental appropriation and directed that employment be reduced, through a combination of RIFs and attrition, to a level consistent with the staff-year levels requested in the supplemental. Finally, the Commission directed the Managing Director to develop an emergency plan which would ensure that the Commission would operate within the available funding level ($48 million) if the supplemental appropriation was not approved.

On an annualized basis, the action plan will result in a total savings of about $2.7 million. Of this amount, $1.2 million will be saved from non-personnel costs such as travel, contracts, space, and telecommunications. The balance of the savings will result from attrition and from the RIFs conducted during the first half of this fiscal year. These savings are displayed below:

Personnel Compensation	$1,500,000
Incentive Awards	70,000
Training	130,000
Travel	300,000
Space	250,000
Telecommunications	150,000
Contracts	280,000
Supplies & Other Expenses	30,000
Total	$2,710,00

Although these savings are significant, they fall far short of making up the full $6 million funding deficit.

The emergency plan considered the impact of conducting RIFs in order to make either across-the-board cuts in agency staff, or, as alternatives, to accomplish major program or organizational changes. The only other option available was to conduct furloughs of all agency employees.

The effects of the maximum feasible across-the-board staff reductions, program changes, and/or organizational changes would have been severe. These would have resulted in RIFs of about 400 employees because of the amount of time necessary to plan and implement cuts of this magnitude, as well as the high cost of separating a highly tenured workforce. None of these options would have left the Commission in a position to accomplish its functions as required under current legislation. Therefore, the Commission approved the only realistic option available: to forego further RIFs and implement one-day-per-week furloughs of all agency employees during the second half of the fiscal year if supplemental funds were appropriated. This course of action was selected because it was the only option that ensured the Commission could operate within the $48 million funding level, while continuing to perform its current functions, as mandated by the Congress.

DEREGULATION

SENATOR PRESSLER: Although I support the supplemental request, I do not do so without some reservation. It is no secret that I am not the biggest deregulator on Capitol Hill. Would you agree with my statement that the Commission may have gone further than Congress intended in deregulation, and is there really hope for legislators like me who have not been so fatally stricken with the deregulation "bug"?

CHAIRMAN TAYLOR: Overall, I believe that the Commission has properly implemented the regulatory reforms recently enacted by Congress that reduced Government regulation of the trucking, rail, and bus industries.

However, there have been some instances in the past where, in my view, the Commission has failed to properly balance the various policy objectives Congress explicitly set forth to guide the Commission in the implementation of the recent reform Acts. For example, I believe that in the rail area the Commission, on occasion, has failed to properly balance the congressional goals of providing increased freedoms to the railroads while at the same time maintaining protections for shippers whenever there is an absence of effective competition.

Several of the more controversial issues that have given rise to the claim that the Commission is not properly implementing the revised Interstate Commerce Act are either still pending or being revisited by the Commission. As a direct result of our proceeding in Ex Parte No. 456, we received shipper-carrier agreements in the areas of competitive rail access and market dominance, and two rulemaking proceedings addressing these issues have been initiated by the Commission. Also, the Coal Rate Guidelines proceeding [Ex Parte No. 347 (Sub-No. 1)], the discovery portion of the Rail Transportation Contracts proceeding (Ex Parte No. 387), and the per diem portion of the Boxcar proceeding [Ex Parte No. 346 (Sub-No. 8)] are matters still pending before the Commission.

I am hopeful that the new, full-strength Commission will expeditiously address these matters and achieve a reasonable resolution that balances the interests of the carriers, shippers, and the general public.

VICE CHAIRMAN GRADISON: The ICC was given broad discretion in the surface transportation deregulatory legislation of 1980 and 1982 to place greater reliance on competition and the marketplace and a lesser reliance on Government regulation. I believe the ICC has implemented this legislation consistent with the law and the intent of Congress.

There are still many who are skeptical about the benefits of surface transportation deregulation and our implementation of the law. However, in the last five years the flexibility we have allowed carriers and shippers to work out transportation arrangements in their mutual interest has helped to produce a new itality and competitiveness in surface transportation which has een applauded by most parties. While not all parties benefit in the short run from the transition from a protective regulatory regime to a more flexible deregulated regime, the overall competitiveness and responsiveness of the industry has improved. Similarly, while not all parties may benefit initially from deregulation, in time the benefit of market versus regulatory solutions should be available to all shippers and receivers, in all parts of the country.

COMMISSIONER STERRETT: The Motor Carrier Act of 1980, the Staggers Rail Act of 1980, and the Bus Regulatory Reform Act of 1982 contain provisions for substantial deregulation of the motor, rail, and bus industries. The Commission has conscientiously tried to implement these statutes in accord with congressional intent, and the courts have largely blessed the Commission's efforts. More importantly, the transportation public is generally pleased with the results of transportation deregulation. By almost all reports, service today is better and less costly than it was before deregulation.

COMMISSIONER ANDRE: The Staggers Act of 1980, the Motor Carrier Act of 1980, and the Bus Regulatory Reform Act of 1982 effected broad changes in the National Transportation Policy and the Interstate Commerce Act. The opposition to these changes has been diminishing over the past several years, largely because experience with deregulation has had such a favorable impact on prices and service. There are, however, pockets of dissatisfaction with the way the market is working. Not everyone was an immediate beneficiary, and fear about the future in an unregulated environment has added to the criticism of regulatory change.

What is important to note about the actions taken by the Commission is that (1) they were implicit in the new framework established by the 1980 laws; (2) they have most frequently been unanimously supported by the Commission; and (3) they have nearly all been upheld in the courts. A great deal of notoriety has attached to a few situations where unanimity was lacking or court reversal ensued. The most well-known of these alleged "excesses of deregulation" are the exemptions proposed for box car traffic and export coal. Whatever one thinks of the merits of these decisions, the Solicitor General, on behalf of the Department of Justice, has joined the Commission's petitions to the Supreme Court. Thus, it is fair to conclude that the actions of the Commission were well grounded in the provisions of the new law. While some of the affected parties have dramatized many of the Commission's actions almost beyond recognition, the fact is that the Commission has endeavored to make its policy decisions rationally and lawfully under the pro-competitive mandate set by the 1980 laws.

I would add that I think the support for deregulation will continue to spread as time passes. Many of the inefficiencies and cross-subsidies that were characteristic of the regulated transportation system have been eliminated in the first few years of marketplace freedom. The emphasis has already switched from the culling process to the search for new opportunities.

COMMISSIONER SIMMONS: In my two terms at the Commission, I have attempted to implement the Staggers Act, the Motor Carrier Act of 1980, and other recent reform legislation with due regard for the underlying congressional intent. This often involves striking a difficult balance between eliminating unnecessary regulation and retaining appropriate protections where continued regulation is in the public interest. I have not always agreed with all my colleagues on where this balance should be struck, but I intend to continue exercising my responsibilities in an independent and objective fashion.

I believe there is really hope for all public servants engaged in promoting the continued vitality of our nation's surface transportation system.

COMMISSIONER LAMBOLEY: In participating in Commission decisions, I strive to fairly evaluate and balance the many facets of transportation and public interest issues, based on the factual record and consistent with the Interstate Commerce Act, as amended.

In instances in which I did not share my colleagues' views of the record or positions on policy questions, I have written appropriate comment or dissent.

An occasionally inadequate record or competing public policies make difficult the task of harmonizing the various components necessary to achieve a sound National Transportation Policy.

COMMISSIONER STRENIO: First of all, I would like to thank Senator Pressler for his support of the supplemental request. A supplemental is vital if the Agency is to efficiently and effectively carry out its congressional mandate during the remainder of fiscal year 1985 and beyond.

In implementing recent legislative changes, I believe that the Commission has made every effort to follow both explicit congressional statutory directives and to exercise its discretion in a manner consistent with the underlying spirit and purpose of these enactments. In addition, it is essential that the Commission always remain sensitive to congressional concerns and show full regard for congressional intent in formulating agency policy. Moreover, although the Commission has received a generally deregulatory mandate from Congress, in all cases the agency must still strive for a proper balance by carefully considering the views of all parties before making its public interest determination. In voting on matters pending before the Commission, I have considered all arguments and evidence submitted by the parties and have tried to reach decisions that are based on the record and are in keeping with the agency's statutory mandate and congressional intent. I will continue to give due consideration to the concerns of Congress and of all participants in Commission proceedings. My votes on any given matter have depended and will continue to depend upon the law and the facts before me.

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SUBCOMMITTEE RECESS

Senator CHILES. The subcommittee will now stand in recess. The next hearing is scheduled for Wednesday, April 3 on the Federal Aviation Administration.

Thank you.

Mr. TAYLOR. Thank you, Senator.

[Whereupon, at 11:20 a.m., Thursday, March 28, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, April 3.]

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

WEDNESDAY, APRIL 3, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:08 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Kasten, Chiles, Byrd, and Lautenberg.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

STATEMENT OF DONALD D. ENGEN, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

ACCOMPANIED BY:

- **RICHARD H. JONES, DEPUTY ADMINISTRATOR**
- **A.P. ALBRECHT, ASSOCIATE ADMINISTRATOR FOR DEVELOPMENT AND LOGISTICS**
- **WALTER S. LUFFSEY, ASSOCIATE ADMINISTRATOR FOR AIR TRAFFIC**
- **ANTHONY J. BRODERICK, ACTING ASSOCIATE ADMINISTRATOR FOR AVIATION STANDARDS**
- **FRANK L. FRISBIE, DEPUTY ASSOCIATE ADMINISTRATOR FOR DEVELOPMENT AND LOGISTICS**
- **DONALD R. SEGNER, ASSOCIATE ADMINISTRATOR FOR POLICY AND INTERNATIONAL AVIATION**
- **CHARLES E. WEITHONER, ASSOCIATE ADMINISTRATOR FOR HUMAN RESOURCE MANAGEMENT**
- **BROOKS C. GOLDMAN, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION**
- **WILLIAM F. SHEA, ASSOCIATE ADMINISTRATOR FOR AIRPORTS**
- **WILLIAM A. PLISSNER, DIRECTOR OF BUDGET**

OPENING REMARKS

Senator ANDREWS. The meeting will come to order. Today we are privileged to hear from the FAA and the Administrator, Don Engen.

Mr. Engen, it is always good to have you here and to understand the great work that you are doing out there.

ELIMINATION OF AMTRAK

Let me run a quick question by you before you begin because we have been in the throes of Amtrak, and we are concerned, we realize that you are not responsible for the administration proposal to close down Amtrak, but we understand that the impact on the Northeast corridor will be great. There are 17,500 passengers a day on Amtrak. They will have to either fly or crowd the overcrowded highways even more.

How could the FAA handle 17,500 additional daily passengers in that crowded corridor?

Mr. Engen. You want an answer now, Mr. Chairman?

Senator Andrews. Yes; sure. I thought I would get it right up in front so everyone will know where we are coming from.

Mr. Engen. With great difficulty.

Senator Andrews. With great difficulty and considerable additional expense, Mr. Administrator?

Mr. Engen. Yes, sir; you know, I did some quick thumbnail sketches since I heard your speech given at our Aviation Forecast Seminar, which I appreciated very, very much. You tickled my fancy when you threw that out as a problem.

From just a thumbnail, Mr. Chairman, roughly speaking in the United States there are about 310 million passengers in the air in any given year. There are about 20 million passengers on Amtrak.

Now, in the Eastern corridor, which we are really talking about right now—that high-density corridor—there are about 9 million aviation passengers each year going to and from New York, Washington, this area, and about 11 million paying Amtrak passengers. I think we could accommodate with the empty seats that are available some 5 million of those 11 million, and that would leave a delta of about 6 million.

Senator Andrews. And that would go to 100 percent capacity. The fit would have to be absolute and right on target.

Mr. Engen. It would.

Senator Andrews. But then you would have 6 million that you would not know where to put.

Mr. Engen. Yes, sir; but I would hasten to add that in my humble opinion, although I am not a rail expert, given that that is the most productive and paying route for Amtrak, I would hope that passenger service would continue to be provided by the private sector, because it is surely the moneymaker on the line with that many people traveling back and forth.

Senator Andrews. And that, of course, is a question we have got to have resolved from the railroad types. But the point is, in order to handle those additional millions of passengers in that Northeast corridor, you have to make considerable extra investment in controllers, in airports, additional runways, and all of those other facilities, and it would be extremely difficult to get them on line soon enough to accommodate it.

Isn't that true?

Mr. ENGEN. It comes down to airports. Yes, sir; the bottom line is airports.

Senator ANDREWS. And that would be fairly costly.

Mr. ENGEN. Yes, sir.

Senator ANDREWS. That amount of travel, 17,500 daily, is about 15 percent or so the capacity of National, isn't it?

INCREASED AIR SERVICE

Mr. ENGEN. About. Yes, sir.

I come back to my point, if I could, because I think it is a good question. It is a problemmatical one, though, from the standpoint that it is the best paying rail route in the United States, and it would seem to me that private sector service would continue to be provided.

Senator ANDREWS. Well, that is what we would hope, but also what we want to do is make sure that we know what the alternatives are.

Mr. Claytor suggested that there would have to be a minimum of 38 additional takeoffs and landings out of National, and in what you just said that would be an impossibility without displacing air traffic to some other city.

Mr. ENGEN. We would like to use Dulles to a greater advantage. Yes, sir.

Senator ANDREWS. Thank you. And my apologies for getting out of order, but the committee feels that is quite a priority and we wanted for the people that were here, to make sure that they realized that we are focusing on that, trying to know just exactly what the dollar values are on both sides of the equation.

We appreciate your candid answer and your accurate answer.

PREPARED STATEMENT

Again, Mr. Engen, you have a statement. It is an excellent one. We would be glad to assure that it is in the record in its totality. We would like to have you summarize it or give it in whatever way you feel most effective.

[The statement follows:]

STATEMENT OF DONALD D. ENGEN

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you to present the FAA's budget requests for FY 1986. We have proposed resource levels that will permit FAA to continue the modernization and improvement as well as the operation and maintenance of the National Airspace System. Our goal is to provide an airport and airway system responsive to all users.

At the same time, the FAA will do its part to reduce the Federal deficit and to restrain the growth and cost of Government. This budget requests about $200 million less in budget authority than was appropriated in FY 1985. About 85 percent of it will be financed from user taxes paid by those who benefit from aviation. Before I talk about more of the FY 1986 request, I want to look back a bit. Our accomplishments this past year have been impressive. The credit for this belongs to the many fine employees at FAA, to the cooperation of the aviation community, and to you for the resources you provided.

I'd like to give you the highlights of our record:

AIR TRAFFIC CONTROL

We resumed handling 1981 levels of traffic in April 1984. Since then, we have controlled traffic at significantly higher levels. Last summer, I made a commitment that FAA would have about 14,300 in the controller work force by now. We have met that commitment. As expected, many of these new controllers still require additional on-the-job training to attain full performance level, and we are proceeding with that essential professional development.

I am further strengthening the operation of the air traffic control system by centralizing operational control in Washington. I have given line authority to the Associate Administrator for Air Traffic for control of daily operations; for air traffic standards and procedures, flow control, airspace management, system evaluation, policy and program direction, separation, and flight assistance to aircraft. These management changes will guarantee standardization throughout the system and will help move our procedures into the 21st century.

THE NATIONAL AIRSPACE SYSTEM PLAN

There has been considerable activity implementing the NAS Plan during the past year. Virtually every element of the Plan is underway. Let me bring you up to date with some highlights:

- Design competition for HOST mainframe computer between IBM and Sperry has been completed. We will determine which company can best produce the system and expect to award a contract this summer.
- Design competition contracts for the Advanced Automation System (AAS) were awarded to IBM and Hughes inAugust 1984. Both contractors are progressing toward Critical Design Review, scheduled for November 1986.

- Westinghouse is under contract to provide new airport surveillance radars, and was awarded a contract in October for 137 Mode S radar beacon ground stations.

- Installation of Direct Access Radar Channel (DARC) enhancements at FAA Technical Center began in May 1984.

- Specifications for the Voice Switching and Control System (VSCS) Program were completed and an RPM for design competition went out in February. The objective is to replace existing systems in centers with an integrated voice communications system.

- The Systems Engineering Integration (SEI) contractor completed an audit of the NAS Plan that confirmed its objectives and feasibility. The SEI contractor provides systems engineering, integration of systems, and program management toward implementation of the NAS Plan.

- The MLS program is well underway with a contract to purchase 172 systems and an option to purchase 36 additional systems. The first delivery is slated for the fall of 1986.

As directed by the Congress, the FAA has recently completed its annual update of the NAS Plan. We will provide copies to this committee after final editorial work. This third edition of the Plan reaffirms the purpose of earlier editions: improved safety, capacity, productivity and economy through higher levels of automation, application of new technologies, and consolidation of facilities.

FLIGHT SERVICE STATION MODERNIZATION AND PRIVATIZATION

The Flight Service Station (FSS) modernization program has three components: establishment of 61 new facilities, consolidation of 311 facilities into these new 61, and automation of the 61 new facilities with Model 1 and Model 2 systems.

The consolidation of existing facilities provides equal or better level of service to users with less cost to the taxpayer. Savings, as well as significant cost avoidance, can be achieved through consolidation independent of any automation. Existing facilities are equipped with Leased Service A equipment, and initially the consolidated facilities will use that same equipment until the installation of Model 1 automation.

We have identified 57 of the 61 sites. Of the 57 identified, one has been reopened for negotiation due to an OIG audit recommendation, and another is being reevaluated following a GAO review recommendation. The remaining four will be selected by September 30, 1985. I have slowed the rate of consolidations from last year's plan. Concerns voiced by the aviation community and the Congress, and consideration for our employees motivated this decision. I want to assure the best possible continuous service for the users. My modified plans for consolidation anticipate 86 consolidations in the next three years instead of 104 as originally stated. Closures and consolidations have been limited to those required to support transition to the new facilities. Having received Congressional approval in January for some consolidations, we are eager to proceed at a manageable, measured rate.

The first automated system was delivered and installed at the FAA's Technical Center in December 1984. We had experienced some delays with the Model 1 software acquisition which caused about a six-month slippage in the automation program from what we expected when we came before this Committee last spring. The system will undergo extensive testing at the Technical Center through October. We will begin to deliver to field facilities in May 1985. Model 1 will be operating in three Automated Flight Service Stations by the end of calendar year 1985, and in 37 AFSS by November 1986.

We have not requested any additional capital funds for flight service station activities in FY 1986, and we are studying the feasibility of the private sector performing some of the flight service station functions. In the meantime, we will continue planned consolidation and automation with funds already appropriated.

AIRPORT CAPACITY

The last of the capacity controlled airports was released from slot allocation requirements on April 1, 1984, and four airports (National, LaGuardia, Kennedy, and O'Hare) reverted to the 1969 High Density Traffic Airport rule. Air traffic activity rose sharply; congestion at some major airports peaked last summer, and delays became a problem. With our support, the air carriers met and agreed in September to adjust their schedules in order to ease the crunch at particular hours at the busy airports. The new schedules were effective on November 1; by the end of the month, delays were reduced 55 percent compared to October. Actions taken by the FAA and the users have reduced delays and should continue to keep them manageable; therefore, the September agreement was not continued after April 1, 1985.

The general aviation community has also cooperated closely with us to reduce excessive demands on some airports. Together we developed the FASST program (that is, Fly Around Saturated Sectors and Terminals) to improve the efficiency of traffic flow. The general aviation community agreed to the voluntary filing of flight plans four hours in advance at the six most congested airports. General aviation aviators used the FAA airport reservation office to coordinate arrivals and departures at Atlanta, Denver, and Newark Airports which are not included under the High Density rule. We are resectoring to balance traffic loads and prevent overload. The En Route Spacing Program (ESP) - new this year - is providing a look at en route sectors to determine when bunching will occur in order to apply appropriate spacing procedures. This improves surveillance of heavy en route flow and assures manipulation where necessary to "smooth out" flow.

We will continue to work with our associates in the airline industry to minimize delays. Our statistics show that 60 percent of delays are weather related. Approximately 18 percent are "airport capacity" problems or what I call "concrete problems." Where airports have no room for expansion, and where traffic increases, delay problems will increase.

AVIATION STANDARDS

In February 1984, FAA increased the air carrier inspector workforce to return to the FY 1981 staffing level of 674. By September 1984, we had this number of inspectors on-board.

We initiated a "white glove" inspection of all air carriers on March 4, 1984. This initiative, called National Air Transportation Inspection (NATI), was completed June 5, 1984, after more than 13,000 individual inspections. Following the NATI, FAA began in September a 12-to-18 month inspection of general aviation to assure that our safety commitments are being met.

We are currently conducting a comprehensive review (PROJECT SAFE) of inspectors' jobs - the amount and frequency of their tasks and their specific requirements. The outcome of the SAFE studies will guide our decisions about changes in the number of inspectors.

Last year I also established direct line authority to me for the Office of Aviation Safety to emphasize the FAA's concern with safety, and my belief that it should be paramount in all our endeavors.

SAFETY RECORD

Last year, the Nation's airlines achieved the second lowest fatal accident rate in the last ten years; i.e., .014 fatal accidents per 100,000 flight hours. The one fatal accident and four fatalities are an improvement over four accidents and 15 fatalities in 1983 and 233 fatalities in 1982. The commuter accident rate increased, however, from .13 fatal accidents per 100,000 flight hours in 1983 to .34 in 1984; nevertheless, it was still the second lowest accident rate in the last decade.

AVIATION FORECASTS

Aviation activity is inseparable from FAA's workload and resource requirements; therefore, let me mention the indicators that comprise our forecast of aviation activity. In FY 1986 we project the following increases:

- IFR aircraft handled by the en route system will increase from 32.8 million to 33.9 million, an increase of 3.4 percent.
- Instrument operations at FAA towers will increase from 39.1 million to 40.9 million, a 4.6 percent rise.
- Aircraft operations, that is, landings and takeoffs controlled by FAA towers, will increase 5.7 percent from 59.5 million to 62.9 million.
- Flight services provided by flight service stations will increase from 59.6 million to 62.2 million, an increase of 4.4 percent.

Other indicators of aviation growth, though not directly tied to FAA workload, are:

- Revenue passenger miles for air carrier and commuters will increase 4.1 percent from 257.5 billion to 268.1 billion.

- Hours flown by general aviation will increase from 36.7 million to 38.0 million, an increase of 3.5 percent.

NATIONAL AIRSPACE REVIEW

As a companion to the NAS Plan, the National Airspace Review (NAR) is a joint venture of the FAA and members of the aviation industry. This is one of the most extensive Government and private sector efforts on rules, regulations, and procedures ever undertaken. The NAR group has developed 857 recommendations, of which 850 have been approved for further study. About 500 have been - or will be - implemented. The quality of these recommendations convinces me that the NAR should be continued with a focus on future, not present, systems.

AIRCRAFT NOISE COMPLIANCE AND EXEMPTIONS

Part 91 of the Federal Air Regulations required compliance with federal noise standards in order to operate in and out of U.S. airports after January 1, 1985. The regulation was first issued in 1976, so aircraft operators have had eight years then to comply with it. In 1984, Congress directed limited exemptions for operators using Miami and Bangor International Airports, provided that specific commitments were made to comply with the regulation.

To date, FAA has received 146 petitions and has granted 43 limited exemptions. Of these 43 exemptions, 25 were granted under the 1984 legislation. All include stringent conditions governing use of the exempted aircraft. These conditions include:

- limiting operations to hours between 7:00 a.m. and 10:00 p.m. local time at the airports;

- allowing operations only for specific airplanes where a firm commitment has been made to install hush kits; and only until the contracted dates for such installations.

- allowing operations only when necessary for financial survival of operators.

I intend to continue to enforce these regulations and to monitor all exemptions.

Eighteen carriers have obtained stays from federal courts (most from the D.C. Court of Appeals) to permit continued operations despite the noise compliance regulation. Oral hearings for the three lead cases were held by the Appeals Court for the D.C. Circuit on February 27 and a decision was handed down March 29. We are currently examining that decision to determine its effect on the three cases as well as on the remaining cases still before the court.

TRANSFER OF AIRPORTS

On June 8, 1984, Secretary Dole proposed that National and Dulles Airports be transferred from the Federal Government to an appropriate state or interstate government body. A 15 member Advisory Commission, chaired by former Virginia Governor A. Linwood Holton, Jr., was established to propose a plan for the transfer of the airports. The Commission made its recommendations to the Secretary on December 18, 1984.

We are proposing legislation for the transfers. Sufficient time must be allowed for the new independent authority to develop administrative, financial, and operating procedures before the transfer can become effective. Since we cannot be sure of the precise timing of the transfer, we are still requesting funds to continue operating and maintaining the airports during FY 1986.

HUMAN RELATIONS

Secretary Dole has approved FAA's new Human Resource Management organization. It emphasizes my "people first" concept and will oversee and coordinate the agency's human relations efforts. The Jones Committee in November 1984 found that FAA still has much to do in employee relations. We are making progress in this area. Actions taken include:

- human resource management training for all key executives;
- hotline for any employee to report problems directly to my office;
- human resource management organizations reporting directly to the top manager in each element of FAA;
- distributing employee attitude survey results to managers for each segment of FAA with a requirement to prepare plans to deal with problem areas.

We will continue to strive to reduce controller overtime, which is still a source of concern.

FY 1985 LEVELS

FAA is participating actively in the Administration's effort to restrain the growth of Government spending, not only in our budget request, but in management of our current year budget as well. We are not coming to you for additional FY 1985 budget authority to cover the 3.5 percent pay cost in FY 1985. We propose to finance it by transferring some unobligated balances from FRA's northeast corridor project and from our Construction, Metropolitan Washington Airports appropriations, as well as using prior year unobligated balances and paring down current programs. We have also contributed $30 million to the Deficit Reduction effort initiated by the Congress in areas of travel, public affairs, printing, consulting services, and motor vehicles. FAA has accomplished this by postponing some non-critical, non-safety related activities. I am very proud of the agency's managers especially when I read in the newspapers that some agencies have not been able to manage nearly so large a reduction.

TRUST FUNDED PROGRAMS

In 1982, Congress reinstated user taxes to fund the Airport and Airway Trust Fund and its authorized programs through FY 1987. As of FY 1985, 78 percent of the levels authorized through that year were appropriated. This FY 1986 budget increases that percentage. We propose a level which would be 83 percent of the authorization. By the end of FY 1987, when the legislation expires, we propose that 86 percent of the cumulative Trust Fund capital authorization be used.

In addition, we are proposing legislation to: repeal penalty provisions in the Airport Improvement Act of 1982; to finance 75 percent of the Operations and Headquarters Administration appropriations; and to suspend intragovernmental payments from the General Fund equivalent to interest earned on unexpended Trust Fund balances. This approach, together with our proposed Trust Fund levels through FY 1987, not only reduces the large uncommitted Trust Fund balance which was $3.0 billion at the beginning of 1982, but also compensates the general taxpayer for contributing more than his share in past years.

FY 1986 REQUEST FOR APPROPRIATIONS

The FAA 1986 budget request of $5,133 million and 47,515 direct, full-time permanent positions represents a decrease of about $200 million and 403 positions from FY 1985 appropriated levels. Our FY 1985 levels reflect the $30 million rescission proposed to comply with Section 2901 of the Deficit Reduction Act. About 85 percent of our proposed FY 1986 total would be Trust Fund financed.

The 403 position reduction is a net figure which reflects increased growth for air traffic controllers and a stable inspector work force, offset by position savings due mostly to revised staffing standards and to the transfer of various functions to the private sector in accordance with the provisions of OMB Circular A-76. Against this background, I will comment briefly on each request.

OPERATIONS APPROPRIATION

The request for $2,659 million includes a $1,994 million transfer from the Trust Fund. The estimate reflects an increase of $55 million over FY 1985 and a position reduction of 372. The additional funding is a net adjustment after applying management savings and the proposed 5 percent Governmentwide pay cost reduction to increases required for covering mandatory within-grade promotions, price increases, and full FY 1986 cost of the 3.5 percent January FY 1985 pay raise.

The number of positions we are requesting in FY 1986 assumes an increase of air traffic controllers necessary to run the system and no change in the Aviation Safety inspector work force. Offsetting savings came from: a) a revised staffing standard for air traffic tower controllers and field maintenance, b) cut-backs in Flight Service Station personnel, and c) to the contracting-out of certain functions.

HEADQUARTERS ADMINISTRATION

The Headquarters Administration request of $65 million is slightly less than the FY 1985 level and continues our efforts to centralize, standardize, and reduce administrative functions. A major piece of this appropriation is devoted to the important Information Resource Management Plan (IRMP) which will yield greater efficiencies and economies in the future.

OPERATION AND MAINTENANCE
METROPOLITAN WASHINGTON AIRPORTS
(GENERAL FUND)

The Operation and Maintenance of Washington National and Dulles International Airports for FY 1986 will require $35.4 million, a slight decrease in funding of $.5 million.

Washington National is expected to produce an operating profit of $17.4 million and Washington Dulles International $5.4 million. After deduction of $8.1 million in depreciation and interest for the two airports, a net profit of $14.7 million should be realized. The rate structure and concession arrangements at these airports are established to assure recovery of operating costs, interest expenses, and an appropriate return of the Government's investment. Fees collected from airport users are deposited as miscellaneous receipts to the Gereral Fund of the Treasury.

CONSTRUCTION,
METROPOLITAN WASHINGTON AIRPORTS
(GENERAL FUND)

The budget estimate for construction at Washington National and Dulles International Airports for FY 1986 totals $13.0 million. These funds are required to finance rehabilitation and improvements of facilities to insure that these airports meet the travel needs of the public safely and efficiently. At Washington National, funds are requested to rehabilitate airfield facilities, airport buildings, roads, and utility systems. At Dulles, airport buildings, roads, and needed facility alterations and improvements will be financed from this appropriation.

AIRPORT AND AIRWAY TRUST FUND

The Trust Fund will have an unappropriated balance of $4.7 billion at the beginning of FY 1986, and tax revenue during the year will be $3.2 billion. Requested appropriations of $4.1 billion will leave an unappropriated balance of $3.8 billion at the end of FY 1986. Of the latter, $3.1 billion is committed by law for future obligations or liquidation, thus $.7 billion will remain for use in subsequent years. This represents a continued drawdown of the Trust Fund balance from the $2.2 billion expected at the end of the current year.

GRANTS-IN-AID FOR AIRPORTS
(AIRPORT AND AIRWAY TRUST FUND)

This budget proposes contract authority and an obligation level of $1,017.0 million, representing full use of authority becoming available in FY 1986 for airport planning and development. We request liquidating cash appropriation of $693.0 million to ensure that sufficient Trust Fund cash is available to pay obligations from prior years, as well as for those expected to come due from FY 1986 obligations.

FACILITIES AND EQUIPMENT
(AIRPORT AND AIRWAY TRUST FUND)

FAA's FY 1986 request for the Facilities and Equipment appropriation is $1,146 million, $214 million less than FY 1985. It is the fifth year of the National Airspace System Plan.

Financed by user taxes, this request replaces obsolesent, labor-related intensive facilities with equipment capable of handling traffic predicted for the 1990's. In light of the national deficit, I am requesting less than the authorized level of budget authority for Facilities and Equipment; however the request continues to support the NAS Plan schedule.

To comprehend a multi-year, capital appropriation like this one, obligation or program levels are of equal interest with Budget Authority. We plan to obligate - place under contract - $1.2 billion in FY 1985 - more than three times greater than our previous high. Our progress to date has been significant. We have already obligated through January over $400 million toward our FY 1985 target of $1.2 billion. We expect approximately the same level in FY 1986 - $1.1 billion.

Major new systems or equipment replacement programs proposed for funding include:

- Installation, checkout, and testing of Modern "Host" Air Traffic Control Computers.
- Replacement of 53 Airport Surveillance Radar.
- Establishment of Airport Surface Detection Equipment.
- Establishment, Replacement or Modernization of Airport Traffic Control Towers.
- Establishment of 60 Microwave Landing Systems.
- System Engineering and Intregration Contractual Support.

Research Engineering and Development
(Airport and Airway Trust Fund)

We request $196 million for FAA's Research, Engineering and Development activities. About 53 percent of the funding request goes for developing the Advanced Automation Systems to accommodate air traffic demand after 1990. Another major effort involves the Voice Switching and Control System (VSCS) - an integral part of the upgrading of air traffic control systems. Testing the Traffic Alert and Collision Avoidance System (TCAS) continues, along with formulating concepts for future air traffic control systems.

The FY 1986 program will include work on the development of a Central Weather Processor, research into cabin fire safety, aviation environmental protection, medical research into aircrew and passenger protection and controller performance, and rotorcraft system development.

This concludes my summary of our budget request, Mr. Chairman. Now my staff and I are prepared to answer your questions.

STATEMENT OF MR. ENGEN

Mr. ENGEN. Thank you, Mr. Chairman, very much. It is indeed a pleasure to be before you, and I will just summarize my statement and just highlight a few issues.

AIR TRAFFIC CONTROL

In the matter of air traffic control, we reached the 1981 levels of air traffic at this time last year and have handled significantly more since that time. Last summer, I committed FAA to a controller work force of some 14,300 by now, and we have met that commitment.

Further, we are strengthening air traffic control in the United States by centralizing operations nationally. The Associate Administrator for Air Traffic now has line authority and we are building a more standardized system.

NATIONAL AIRSPACE SYSTEM PLAN

In the matter of the National Airspace System Plan, the past year has seen considerable activity implementing that plan. Virtually every element of the plan is underway. IBM and Sperry completed design competition for the host mainframe computer and we expect to award a contract this summer. Design competition contracts for the advanced automation system went to IBM and Hughes last August. Critical design review is scheduled for November 1986. These key developments are on time and at the projected cost.

Westinghouse is now under contract to provide new airport surveillance radars, and was awarded a contract in October for some 137 Mode S radar beacon ground stations. Installation of direct access radar channel [DARC] enhancements at the FAA Technical Center began in May of last year.

Specifications for the voice switching and control system, the VSCS, are complete and bids for design competition went out this February, just past. The System Engineering Integration contractor completed an audit of the NAS Plan that confirmed the objectives and feasibility of that plan.

MLS is well underway with a contract to purchase 172 systems with an option for 36 more. First delivery is now slated for the fall of 1986.

FAA recently completed its annual update of the NAS Plan and we will provide that update to this committee after some final editorial work. I hope to have that up to you in the ensuing weeks.

FSS MODERNIZATION AND PRIVATIZATION

In the matter of flight service station modernization and privatization, in January I testified about sites and schedule for FSS modernization, to assure you and the users that the FAA will provide the best possible service. Closures and consolidations are limited to those required to support transition to new facilities. With your approval, in January we are proceeding with some consolidations that are manageable, at a very measured rate.

We do not request additional capital funds for flight service stations in fiscal year 1986 and we are studying the feasibility of the private sector performing some of their functions. In the meantime, consolidation and automation are continuing with funds already appropriated.

AIRPORT CAPACITY

In the matter of airport capacity, upon which we just touched briefly, the last capacity-controlled airports were released from slot allocation requirements on April 1, 1984, when four of the six airports—National, LaGuardia, Kennedy, and O'Hare—reverted to the 1969 high-density traffic airport rule.

Last summer, air traffic activity had risen sharply. Congestion at some major airports peaked and delays became a very real problem. At my request and with our support, the air carriers met and agreed in September to adjust their schedules in order to ease traffic bunching at particular hours at the six busiest airports. The new schedules were effective November 1.

By the end of that month, delays were reduced by 55 percent from October. These delay reductions have continued. FAA and user action should continue to keep them manageable; therefore, the September agreement will not be continued beyond last Monday, April 1.

The FAA is resectoring to balance traffic loads and to prevent overload. The En Route Spacing Program, or ESP, new this year, looks at sectors to predict bunching and we apply appropriate spacing procedures.

We have other dynamic programs that have been implemented in the past 5 months. We continue to work on delays with our associates in the airline industry. Statistics today show that a little over 60 percent of delays are weather-related. Approximately 22 percent of the delays are caused by daily events such as closed runways or repairs or unusual events at airports. About 4 percent are airport capacity problems, or what I call concrete problems, where the airports have no room for expansion, causing increased traffic delays.

The remainder of these delays are en route delays due to the system, where a computer goes down from time to time, or radar is down, or other reasons such as gatehold by the company, or perhaps such as maintenance of the airplane itself.

HUMAN RELATIONS

In the matter of human relations inside the FAA, and I view this as a very important matter to us, I have established a human resource management organization to emphasize a people first concept and oversee our human relations in the FAA.

People are what make every organization, and I want each person to understand how he or she contributes to create the product that we must provide to the American flying public—and that product is service.

Among the many initiatives we have instituted, just to mention a few, are human resource management training for key executives; an employee hotline direct to my office; and also a plan of action for each manager to deal with the employee attitude survey results.

OPERATIONS APPROPRIATION

I would mention our fiscal year 1985 operations appropriation. My formal statement discusses FAA's efforts to curtail spending. Our operations program is particularly strained by absorbing $25 million of last January's pay raise; $18.9 million for the Deficit Reduction Act; and about $40 million of unanticipated requirements such as I discussed with this committee last September.

Taken one by one, none of these items would severely curtail FAA activities, but taken together they made it necessary to instruct my managers to direct these strained resources to a very careful balance of safety, traffic, and human relations priorities. This austere level forms the base for our fiscal year 1986 request.

TRUST FUND CONTRIBUTION

In the matter of trust fund contribution, I would mention that through fiscal year 1985, 78 percent of the levels authorized by Congress for the airport and airway trust fund were appropriated. This fiscal year 1986 budget increases that percentage to 83 percent of the authorization.

In addition, we would propose legislation to raise the users' contribution from 55 percent since 1982 to the 85 percent attributable to them.

It would repeal penalty provisions in the Airport Improvement Act of 1982 and finance 75 percent of the operations and headquarters administration appropriations.

Finally, it would suspend interest to the trust fund to compensate the general taxpayer for contributing more than his share in past years.

FISCAL YEAR 1986 REQUEST FOR APPROPRIATIONS

Finally, in the matter of our fiscal year 1986 request for appropriations, the FAA 1986 budget request of $5.133 billion and 47,515 direct full-time permanent positions represents a decrease of about $200 million and 403 positions from fiscal year 1985.

The position reduction is a result of an amalgam of increased growth for air traffic controllers, a stable inspector work force, savings from revised staffing standards, and transfer of functions to the private sector.

Operations increases $55 million—and this is the net of management savings, Governmentwide pay cut, personnel (mostly controller promotions), price increases, and full year cost of last January's pay raise.

For grants-in-aid for airports, this budget proposes contract authority and obligations of $1.017 billion. FAA's fiscal year 1986 facilities and equipment request is $1.146 billion, $214 million less than fiscal year 1985. Although I am asking less than the authorized level, it will sustain the NAS Plan schedule.

We plan to obligate—and I mean place under contract—$1.2 billion in fiscal year 1985, more than three times our previous high. We have already obligated through January over $400 million for the fiscal year 1985 target.

Our request for research, engineering, and development is $196 million, 53 percent of which is for the advanced automation system. Other major efforts involve the voice switching and control system, or VSCS, and the traffic alert and collision avoidance system [TCAS].

Mr. Chairman, this concludes my brief remarks. I brought some of my staff with me, and they and I are prepared to try to answer your questions, sir.

CONTINGENCY PLAN—NORTHEAST CORRIDOR

Senator ANDREWS. Thank you, Mr. Administrator. That was an excellent statement. We are glad to have you and your staff here.

Again, on the issue of Amtrak, I would like to make the record a little more complete. What contingency plans have you in the FAA developed to take care of the additional traffic in the already heavily saturated New York area if Amtrak is shut down?

Mr. ENGEN. As you know, sir, in the age of deregulation, we—first of all, I, as the Administrator of the FAA—would control the traffic as it flows to and from New York. But in the age of deregulation where the marketplace establishes the need, there would have to be people coming forward to provide that service.

Once that becomes a fact and that service is provided, we would have to accommodate the landing slots, as we talked about before, and look at alternate airports, if you will, that could be used to move people back and forth.

Senator ANDREWS. But if one part of Government, the Office of Management and Budget, says that it is going to remove one phase of transportation—rail transportation—in this case, Amtrak, in the heavily traveled New York City area, a then the other part of Government—FAA—which controls the facilities for landings and takeoffs and all the rest, is going to have to respond to that shutdown.

Do you have a contingency plan?

Mr. ENGEN. We have a plan which can accommodate the traffic growth. We do not have a contingency plan specifically for that.

Senator ANDREWS. So you have not been asked to put together a contingency plan to deal with the sudden shutdown of these 17,500 passengers a day in that area?

Mr. ENGEN. We have discussed the issue and Secretary Dole is very aware of the issue. We have not put in place a contingency study, sir.

Senator ANDREWS. Well, that brings up another part of the subject. Was FAA consulted as to the impact the shutdown of Amtrak would have on air travel and on your ability to take care of the additional air travel imposed on the system in the New York and Washington congested areas?

Mr. ENGEN. This has been discussed at the staff levels, Mr. Chairman, and it does not come as a surprise. It is something which I would hope that we could accommodate.

Senator ANDREWS. But you can accommodate only at considerable expense is what you said a minute ago.

Mr. ENGEN. Yes, sir.

TOWERS

Senator ANDREWS. That is fine.

Let me ask one other question on something we have discussed before. Time after time, you know, my interest and Senator Byrd's interest in keeping air traffic control towers, airport control towers specifically, operating—I am specifically interested in Minot and Bismarck, ND. Senator Byrd has interests in West Virginia, as you know so well.

Are you continuing the policy of keeping in operation all of those traffic control towers that are now in operation?

Mr. ENGEN. We are, sir.

Senator ANDREWS. And there is no plan in the system to shut down or cut back the operation of that airport control tower in Minot or in Bismarck or in the ones in West Virginia?

Mr. ENGEN. There is no plan in the mill at all. Give me one out, if you will, please. Please do not say that I can never change—make me say—that I can never change the system.

Senator ANDREWS. No; we are not saying——

Mr. ENGEN. There is no plan.

Senator ANDREWS. Never is never; but there is no plan rattling around there that should cause either Senator Byrd or myself any concern during the foreseeable future.

Mr. ENGEN. There is not.

Senator ANDREWS. Fine.

One final statement before I turn for a minute to Senator Chiles who has another appointment he has to go to, another committee hearing.

Let me commend you, Mr. Administrator. The last hearing was on the ICC, another Government agency, which was here crying and bleeding all over the place because we had given them a cut and they did not want to live up to it, and they wanted to be restored to full funding.

You absorbed the cut that we gave your agency in operations and headquarters, and you are not back here saying that you cannot deal with the appropriation. In the knowledge that we have to deal with the deficits and the tight money situation we face in this Government, that is really commendable for you. We want to tell you that we appreciate those agencies that can absorb the cuts that have to be made and are not coming back saying to a congressional committee that Congress has no right to make cuts, and saying that the agency needs full funding.

So our thanks to you. You make our job a lot easier.

Senator Chiles.

DRUG INTERDICTION PROGRAM

Senator CHILES. Thank you, Mr. Chairman.

Mr. Administrator, as you know, approximately $500 million of the $11 billion National Airspace System Plan improvement money will be spent to replace and upgrade the 44 border radars. These support our air defense identification zone system with radar data being used by both the North American Defense Command and FAA. The Air Force is going to pay one-half the cost of these systems.

I have written both the Office of Technology Assessment and the U.S. Customs Service to learn how this $1 billion investment could also serve our drug interdiction program, specifically the Air Interdiction Program of the U.S. Customs Service.

Customs has a contract with Mitre Corp. to explore this question which is due May 1, 1985. Has the FAA looked into the question of how these new 3D border radars can assist in the war against drugs?

Mr. ENGEN. Senator, yes; we have, and we are continuing to work with the Department of Defense, and we are very interested. As you know, the 3D radar—those 48 coastal radars that you mentioned that we are cooperating with the U.S. Air Force on—are site-specific. Once in place, that determines the horizon or the area which they can cover, and we are examining them to be sure that these are indeed placed in the best locations.

Senator CHILES. Well, we have been told by OTA that while the new 3D radar will have a greater range and pick up targets out to 250 miles, they will provide no coverage below 2,500 feet.

As you know, Florida is pretty flat, and aircraft can come in quite low. What system changes can be made to get radar coverage below that 2,500 feet?

Mr. ENGEN. Senator, it is very difficult. You cannot bend a beam over the horizon without going to backscatter and some very complex systems that cost a great deal of money. As you are aware, there are in place through the DEA and in coordination with the FAA, some tethered sites that look down.

I would say that we should place the 3D radar sites, in the best way possible to get the maximum coverage, but we cannot make that radar bend over the horizon. It is a technical matter that I think is a challenge for the installation at each individual site.

Senator CHILES. Well, I am aware, as you are, that the NNBIS study noted it would take 250 3D radars placed every 10 miles from Jacksonville to Brownsville, TX to get continuous radar coverage with coverage down to 1,000 feet. Such a system would cost $2½ billion and still the druggers could fly under it.

With the 44 3D radars now planned by FAA nationwide, we all know there are going to be big gaps in coverage. It would be a great deal cheaper to change FAA procedures. Last week U.S. Customs Commissioner von Raab wrote to me with the following suggestions:

> Change FAA procedures to require all aircraft to enter the United States from foreign countries at or above an altitude of 5,000 feet at least 50 miles from the border or coastline, or be under positive control of an FAA facility and utilizing a functional transponder; and establish entry corridors into all of the Customs-designated airports, and require all general aviation aircraft entering the United States from foreign countries to enter via the corridors.
>
> That would allow any aircraft attempting to enter outside of the corridors to be considered suspect by Customs and dealt with appropriately.

What are your reactions to these two Customs proposals?

Mr. ENGEN. Let me state a caveat, first of all, Senator Chiles. I want to be careful with the words I use in a public forum here. Working with the National Narcotics Border Interdiction System or NNBIS, we have addressed some of those issues and are continuing to address them now.

I think they pose workable solutions. They don't deny the person from not following that, though, and dropping down and continuing to do what he or she might do.

Without becoming specific about what we are doing, I think that it has considerable merit.

Senator CHILES. Well, I think so, too. You know, we have certain additional aircraft we are going to put up there. We hope to get some P3 aircraft that will be in a reserve capacity that can also be used. At least if they could know that the targets that they are picking out have some reason to be suspect because they are not following a procedure, that narrows their task an awful lot, even though it doesn't give us all the possibilities.

I hope you will follow up on that.

LAKELAND TOWER

In February 1985, Senator Andrews and I wrote you to urge your favorable consideration of a contract tower for Lakeland, Florida Airport to be funded as one of the 30 contract towers the committee funded for 1985. As we note in a letter to you, the Lakeland Airport has a more favorable FAA phase I cost/benefit ratio than several of the 15 towers approved by FAA for fiscal year 1984.

At our February 26 hearing, the Department's Inspector General confirmed information indicating the Contract Tower Program had been pending for approval in the Office of the Secretary since last September.

Has the Office of the Secretary approved the program and, if not, when do you expect that they will do so?

Mr. ENGEN. I anticipate that the program will be approved very shortly. It is just a matter of crossing the t's and dotting the i's, I think, Senator.

Our plan at this point, of course—and I would share it with you, quite candidly, because it is fact as we look at it—is to identify that particular tower as the first non-Federal tower included in the Contract Tower Program. That is indeed our plan.

And I think that as we continue to work on the contract tower staffing, you will see some movement very shortly. I am told that it has just recently been approved, so I will amend what I said. The Contract Tower Program has been approved.

Senator CHILES. It has been approved?

Mr. ENGEN. It has been approved by the Department.

Senator CHILES. So you think we would have some good news for Lakeland pretty quickly, then.

Mr. Chairman, I have some other questions, and I will be happy to submit them for the record.

Senator ANDREWS. We will put those in the record. I understand your hurry. That is why I wanted you to have the opportunity to question now.

Senator CHILES. Thank you.

TRUST FUND

Senator ANDREWS. Mr. Administrator, the fiscal year 1986 uncommitted balance of the trust fund will approach $3.3 billion, assuming the full authorized levels held in reserve as well as inaction on the proposal to increase the trust fund share of operations.

Can you project the trust fund status using the same assumptions for the remainder of the authorization?

Mr. ENGEN. Are we going to talk unused balances or what are we going to talk in terms of?

Senator ANDREWS. Well, assuming the full authorized levels held in reserve as well as inaction on the proposal to increase the trust fund share of operations. We just want to know how much we have in uncommitted balances.

Mr. ENGEN. I would like to have Mr. Plissner——

Senator ANDREWS. If you could do that for the record, it is OK.

Mr. ENGEN. I will, but at this point in time I could have Mr. Plissner expound on this a little bit. It might be illuminating, because I think he has basically what you are asking.

Senator ANDREWS. You can give us a round house figure; then you can refine it for the record.

[The information follows:]

The trust fund unused balance indicates remaining money available for expenditure on programs and is defined as the trust fund cash balance less the sum of the moneys appropriated but not expended and the moneys committed to liquidate AIP grant obligations. The unused balance would be $3.3 and $3.1 billion in fiscal years 1986 and 1987, respectively, if the administration proposal to increase the trust fund share of operations is not enacted. The uncommitted balance, which is the sum of the unused balance less the difference between the authorized and appropriated funds, would be $1.9 and $1.6 billion in fiscal years 1986 and 1987.

Mr. PLISSNER. The uncommitted balances—and, of course, balances are quoted in many different fashions on the trust fund—the uncommitted balances through the period of the current legislation, which is fiscal year 1987, would pretty well stay constant, assuming the changes that the administration is requesting.

Actually, there might be a slight negative balance on the uncommitted. On the other hand, the unused balance—and the difference is authorization not appropriated and not acted upon by the Congress—the unused balance would still remain over $1 billion.

Beyond 1987, there would be a positive balance at all levels: uncommitted, unused, or unexpended.

Senator ANDREWS. Well, given the growing balance in the trust fund, what legislative changes to the tax structure are currently contemplated?

Mr. PLISSNER. The administration, of course, at this point has not yet sent up its proposal for the new legislation. It is due to come up a year from May. And therefore, I don't think we can properly answer what effect or what tax rates are likely to be proposed.

However, projecting the present proposal on interest and penalty provisions, there would be no substantial increase in unused or uncommitted balances through the next 5 years or so.

Senator ANDREWS. Well, what is the status of the legislation to recover 75 percent of operations cost from the trust fund?

Mr. ENGEN. That is in its final stage of preparation right now. The OMB comments are in, and I expect that very soon, Mr. Chairman.

Senator ANDREWS. How is this initiative being received in the aviation community?

Mr. ENGEN. With great interest. [Laughter.]

Senator ANDREWS. You should be on this side of the table with remarks like that.

What indications does the FAA have that the authorizing committees will consider and report such legislation before the fiscal year 1986 appropriations is marked up this summer?

How is your crystal ball working?

Mr. ENGEN. I don't know that I can truly answer that, Mr. Chairman. I know that we are formulating the legislation to move it forward, and I expect that since OMB comments are in, that we would be doing this very shortly.

Senator ANDREWS. Given the interest from the aviation community you mentioned a moment ago, chances are we cannot depend on that change being approved and signed by the President prior to the time we have to act on the 1986 appropriation.

One other question in that line. If FAA operation costs continue to grow, couldn't a flat percentage method of computing the amount of trust funds used to finance operations lead to large expenditures from the fund down the road?

Mr. ENGEN. Bill, do you want to look in your crystal ball?

Mr. PLISSNER. Well, I think the proposal is for the trust fund to finance a very substantial portion of operating cost, regardless of the appropriation requested and enacted for the capital program.

Senator ANDREWS. Well, the question is, if you start tapping more of the trust fund for operations, operations could have a tendency to grow like Topsy.

Mr. PLISSNER. Yes, sir; but on the other hand, certainly the Appropriations Committee will continue to review all our requests in their entirety and we have not found that they have grown out of pace under that circumstance.

CONTROLLER WORK FORCE

Senator ANDREWS. Your statement indicates that FAA met the goal to reach a 14,306 level air traffic controller work force by February 1985.

Can you provide a breakdown of full performance level and trainee personnel for this current level as well as the fiscal year 1986 end of the year level of 14,400?

What we really want to know is what future work force and dollar increases will be necessary to meet traffic projections? Have you got, again, a roundhouse figure on what we have got to look at down the road there?

Mr. ENGEN. I do, Mr. Chairman. Let me just say that we are growing in the en route option and we are coming down in the terminal or tower option, and that is how we are able to straight line the force at about 14,400.

Today, we still have some 2,200-and-some-odd development controllers in the pipeline. My goal, as I have spoken to you before, is to get that down to 800. Each day that is coming down. I postulate by the end of this fiscal year that we will be at the 1,100 development controllers, down some 1,100 in the ensuing 6 months. That is improving.

The quality of the work force is going up with each day, and we are having more and more people qualified. The system is responding well, and I would like to provide for the record, if I can, the exact breakdown in the categories which you specified.

Senator ANDREWS. If you could, because we understand that prior to the air traffic controllers strike, 82 percent of the controller work force was at full performance level. And as we look at your current staffing projections, it looks like you will not reach that level again until late 1989, and, of course, what we are interested in is how that timetable could be accelerated.

Mr. ENGEN. Let me ask Mr. Luffsey if he can respond particularly to that thing. He can provide some figures right now.

Mr. LUFFSEY. Mr. Chairman, starting with a 14,306—let me try to shred that out for us in terms of full performance level. That is a 7,779, or 69 percent full performance level. There are also 2,543 operationally qualified controllers who have not reached the full performance level. In the developmental pipeline, as the Administrator mentioned, there are 2,234, with air traffic assistants at 1,703. That is a total of 14,259.

My records show that the July 31, 1981, level of full performance was 81 percent. I can give a table for the record that will show our projections on full performance level improvement through the years, starting from now at 69 percent, going to 72 in 1985, 76 in 1986, et cetera, up to a level of 86 percent in 1990. Those are our projections currently.

[The information follows:]

Projected percentage of full performance level controllers

Fiscal year	*Percentage*
February 28, 1985	69
September 30, 1985	72
1986	76
1987	80
1988	83
1989	85
1990	86

Senator ANDREWS. Anything we can do to speed that up? Or do you think that is max rate?

Mr. LUFFSEY. To be very honest, sir, I think it is an appropriate rate, if you will. It has been figured to a crescendo at a rate that is acceptable within the system because of the level and balance of training that we are doing.

And if there were some way we could speed it up, I would certainly seek that alternative. We don't see anything now.

PART-TIME CONTROLLERS

Senator ANDREWS. Demand for ATC services peaks based upon travelers' and shippers' demand for services. Does FAA have an effective program to make use of ATC personnel who may only be willing or able to work part time?

Mr. ENGEN. That is an area that I am very interested in and we are pursuing it, particularly in the flight service station mode. And it can be done in the air traffic controller mode——

Senator ANDREWS. But that is not controlling traffic. That is where the big crunch comes.

Mr. ENGEN. It does in a sense, sir. But I understand. The simple answer is, we are examining it very favorably, but I have got to add a caveat this way; by saying you must maintain your qualifications to control traffic and currency in the job requires that a certain number of hours each week, or certainly each 2 weeks, are expended on the job, and that will determine the amount of part time that we can use.

Senator ANDREWS. What we are looking at in part time, or what I am thinking of as part time, is someone who may be willing to work 15 to

20 hours a week. And we wonder if greater use could be made of this type part-time personnel, either to control traffic or as instructors, to more rapidly qualify developmental controllers.

You have got these assets sitting out there, and we paid extra money to keep some of them on beyond their normal time of retirement, and now can they be used as part-time people to eliminate some of these problem peaks that we discussed last September?

Mr. ENGEN. They can indeed. Let me ask Mr. Luffsey if he could address that in a little more detail.

Mr. LUFFSEY. Yes, sir; that, of course, is an area that is indeed shown to be of interest to the professional women controllers that we have dealt with specifically. And in looking at what we can do, we are, of course, looking in some depth at the use of part time.

What we need to do is figure a way to create complementing positions within a facility. For instance, the addition of someone for a partial day often would require a complementing person part time for the rest of the day for a full shift. So there are some complexities in dealing with that.

We are exploring ways to take full advantage of part time capability and we are just not there yet.

AIRPORT DELAYS

Senator ANDREWS. As you know, we convened a special hearing last September to review the significant increase in delays during the summer of 1984. Sitting on the ramp at National Airport for a couple of hours does not do anything to make one feel better toward the system.

Airline schedule adjustments put in place last November were lifted this week. What system capacity improvements have been made to avoid a repeat of last year's statistics?

Mr. ENGEN. First of all, sir, there has been a graphic improvement. In the month of March we averaged somewhere in the 600-delays-a-day category. If you just say for argument's sake that the average day was 100,000 operations—that is a little high, because it probably was more like 95,000 movements in the system a day—600 delays out of 100,000 shows that delays have really come down a great deal.

We have done a great deal, to answer your question. We have instituted some new programs. The en route spacing program which we have implemented—we have also worked out a metering system whereby we can meter traffic, departure traffic into the system and bring out traffic out of the system and meter it for arrival.

We have an en route sector loading program. And as you know, the general aviation industry, specifically the National Business Aircraft Association, developed an 800 number which utilizes information that we pass to them which would highlight sectors around which you should fly.

Senator ANDREWS. That is right, but the Air Transport Association recommended improvements at these 22 pacing airports, improvements that they felt could be made within a few years at the 22 airports that account for 95 percent of delays of 15 minutes.

Are you going to implement those recommendations? Which of them can be implemented?

Mr. ENGEN. Let me address that specifically because that relates to airports as opposed to the system and what I was just talking about here. That was indeed a good effort, and Mr. Ignatius and I got together and I appreciated very much those issues that they raised.

They came up with about 148 issues at 22 pacing airports which we had given them. And I have looked at that, and in fact I responded this morning to Mr. Ignatius on an interim basis, just to be sure that he knows that we have a good dialog going.

Of those recommendations that they made, 23 percent are already being implemented or had been implemented in the past 6 months; 24 percent of them additionally were already funded and are planned to be done. So that is some 47 percent that are in being and are being accomplished.

Thirty-nine percent of what he recommended were feasible. We are looking at those, and those are good suggestions, and we are working on them.

Senator ANDREWS. The specific question has to be: Are there adequate funds identified in the current appropropriations request to handle those suggestions?

Mr. ENGEN. I cannot answer that directly. I have got to look and see, because I am looking at implementing some 39 percent that are not planned right now.

Senator ANDREWS. If not, can funds be reprogrammed for——

Mr. ENGEN. It is possible. I know that he came up with a figure of $240 million for the total package, just as a scientific guess.

EN ROUTE SPACING

Senator ANDREWS. Well, last September, as you know, we talked about the airport delays and the sitting on the runway for 2 hours that many of us experienced out here at National was not because of a lack of National capacity; it was because of a lack of capacity in these centers on down the line.

Mr. ENGEN. Say airports, sir. And scheduling. Remember that when we implemented the change in scheduling, we immediately reduced the delays by 55 percent.

Senator ANDREWS. That is true, but the change in scheduling was not to accommodate airport capacity as much as it was to accommodate these air traffic control centers. Is that not true?

Mr. ENGEN. It was to accommodate the airports themselves that were being stuffed full. The system itself, the en route system is functioning. Perhaps the ATA would argue with me on this.

Your initial question was what have we done in the system, and I told you we have gone to en route spacing change, we have gone to sector loading, we are metering the flow into and out of the airports. These things are in place right now.

With each passing day as we get experience with them, we are improving the system. It was for that reason that I, with cautious optimism, relaxed the hold I had on everybody on April 1 of this year, and we are going to endeavor to go through the summer without that restriction.

Senator ANDREWS. What you are telling the traveling public is that as they sit waiting to take off, waiting even though the runway is available at National, but they are not going to be told they can't take off because there is no capacity in the air traffic control center.

Mr. ENGEN. I cannot guarantee there won't be any delays.

Senator ANDREWS. But we are not going to hear that as much as we did last summer.

Senator Kasten.

WISCONSIN ILS

Senator KASTEN. Mr. Chairman, thank you. I have a couple questions that I would like to review for the record.

Admiral, last year, the Congress asked that the FAA complete the ILS system in Manitowoc, WI. It is my understanding that that ILS system now is scheduled to be completed in December of this year.

Is that the still the schedule, and is everything on board for that completion date?

Mr. ENGEN. Senator Kasten, that is the schedule and I anticipate we will complete it on time.

Senator KASTEN. Admiral, we look forward to working with you on that. If there are any questions or problems, I would be particularly interested.

Mr. Chairman, I have some questions that I will submit for the record. I thank you very much.

Senator ANDREWS. We will include them in the record.

CONTROL TOWERS

Senator ANDREWS. Senator Byrd, I mentioned that we have already solved the problem of control towers in West Virginia and North Dakota.

Senator BYRD. Yes; and I am very grateful for your having asked the question. Let me just be sure that I understand that the answer was what I hope it was.

Senator ANDREWS. You want to hear it with your own ears.

Senator BYRD. Yes.

Senator ANDREWS. That proves that you are indeed and in fact the excellent Senator that every one of us knows you are.

Senator BYRD. I hope I can get that excerpt from the minutes that are being taken down. [Laughter.]

Senator ANDREWS. You know how the system works.

Senator BYRD. Plato thanked the gods for having permitted him to live in the age of Socrates. I thank the benign hand of destiny for allowing me to live and serve on this subcommittee at the time that the very distinguished Senator, Mr. Andrews, presides over the subcommittee with a degree of efficiency and ability as rare as a day in June.

I would like to hear the answer to this question: Do you have plans to close any flight service stations or air traffic control towers in West Virginia in fiscal years 1986, 1987, or 1988?

Mr. Engen. A direct answer on the towers right now, and I am going to pass to Mr. Pozesky to answer for the flight service stations. I can answer for 1985 and 1986. We don't plan to close towers in West Virginia at this point in time. There may be—I want to leave room, Senator—that I can make a decision that if one of those towers falls under some kind of a contract arrangement, that might be adjudicated downstream.

Things are too unknown for me. I can't give you an unequivocal statement on that. But there are no plans at this time to close any towers.

There are no plans to close flight service stations in West Virginia. However——

Senator Byrd. Now, let's don't muddle the waters in that downstream.

That is fine. I thank you. [Laughter.]

I ask, Mr. Chairman, if I may insert other questions in the record.

Senator Andrews. We would be glad to have those questions for the record.

Senator Byrd. I heard the response, and I shall go back to West Virginia tomorrow or the next day with a renewed hope and faith and belief that there is life beyond 1985.

Mr. Engen. Senator, I thank you very much. I know that aviation is very much a part of West Virginia.

Senator Byrd. I thank you.

Thank you, Mr. Chairman. I had better go on the floor because the Senate is about to go into session. Thank you very much.

AIP APPLICATIONS

Senator Andrews. How many of the Air Transport Association's recommendations are already pending as airport improvement program applications?

Mr. Engen. Without getting into a great amount of detail, let me say again that there were 148 individual recommendations and, of those, 23 percent are ongoing, 24 percent are planned right now, for a total of 47 percent either ongoing or planned to be accomplished at this time, today.

Senator Andrews. And they are being expedited in fiscal year 1985 and prioritized, I assume, in fiscal year 1986?

Mr. Engen. In the funds that are already appropriated. And also, there are an additional 39 percent that are feasible that I will have to address.

CONTROLLER RETIREMENTS

Senator Andrews. Last September, you testified that of the then-13,500 controller work force, 2,274 were eligible for retirement, with another 300 or 400 becoming eligible during the year. That is that pool that I was thinking of when I addressed the issue of part-time controllers.

What are the current figures? You can provide that for the record, if you wish.

Mr. ENGEN. I will give it a quick shot, because it may have a bearing on further questions you might want to ask. Basically speaking, we have a continual float of about 2,600 people who are qualified, if you will, to retire. And we are not too far off that figure today.

In 1984 I think we had 354—I would like to check the record to be sure that that is absolutely correct—who retired. We anticipate that this year we may have somewhere between 380 and 490 who will retire. Actuarily speaking, it tracks along about in that ballpark. (The actual number is 401 who did retire.)

Senator ANDREWS. Now, as you recall, we extended the provision for retirement pay at a period past. Now, are you working out some type of a plan, or have you found out from these 2,600 or 2,700 individuals if they would be interested in working part-time after retirement, and if they are, that would be the resource we talked about a while ago, but it might well take—in fact, it will take some type of legislation to allow that kind of action to be put into effect.

Have you explored that possibility and does that resource exist?

Mr. ENGEN. Yes; I have explored the possibility, Senator. As you know, we have authorization to continue to hire retired annuitants until the end of this calendar year, December 31.

As we go into the year, I would like to review the need. Instead of committing myself at this point in time to asking for or indicating that I would come forward with some request for authorization, I would rather look at it later in the year, because I want to evaluate that.

INSPECTOR WORK FORCE

Senator ANDREWS. The aviation safety inspectors work force is frozen at the fiscal year 1985 level pending further study. What is the current assessment of the need in fiscal year 1986 for more inspectors, and what will be the budget requirement for additional personnel?

Mr. ENGEN. Right now, as you know, we are conducting a project called SAFE, which is really an evaluation of our inspector work force. I am going to ask Mr. Broderick if he would, as Associate Administrator for Aviation Standards, to make a comment.

But I wanted to say that we have a sufficient number of inspectors to do the job today. However, I am concerned, and I am looking at it even today and tomorrow to see what I might do to enhance that. My gut feel is that we need more inspectors. That is my gut feeling.

We are working with the GAO and within the FAA to come forward with our figures, and we hope that by summertime we will have a firm figure on the numbers that we require.

Tony, would you respond a little bit to this?

Mr. BRODERICK. I would just say that the assignment the Administrator has given us is to quantify his gut feeling, using the data that we have developed, both from the so-called white glove inspection that was done last year for air carriers, the current ongoing general aviation safety audit which covers an inspection of the general aviation airmen and airline facilities, as well as the functional evaluation of each of the some 300 job functions that are currently being carried out by our field safety inspectors.

Using all that data, working with the GAO at the request of the Congress, we will develop a detailed projection of needs by late summer. The Administrator has asked that we use all the data we have available today and tomorrow literally and hopefully by the month of May sometime, give him a preview of what would be needed, even as early as late fiscal year 1985, but certainly getting into fiscal year 1986.

Mr. Engen. I want to talk to Secretary Dole, of course.

Senator Andrews. Will that be in time for a supplemental request?

Mr. Engen. Well, I don't know what the figures are. And I cannot answer about in time for supplemental——

Senator Andrews. I know, but the problem and the reason for the question is, if we suddenly find out we need to do something on the aviation safety inspectors work force, which is extremely critical, and find we do not have time to adjust it in a supplemental and you can't reprogram funds to take care of this, then we are caught between a rock and a hard place.

That is why we would like to point out the timing issue, so we can put that into the bill, if necessary and appropriate.

Mr. Engen. Let me assure you, Mr. Chairman, that I will work very closely with you and not wait until the final "t" is crossed and "i" is dotted before indicating to you where we are going in this study.

I would rather leave it this way and come to you and give you something more than a gut feeling. I will work with you and keep you informed as we move along in this respect.

AIR ILLINOIS

Senator Andrews. What response has FAA made to the National Transportation Safety Board's finding about inadequate FAA inspection, both pre- and postaccident of the Air Illinois October 1983 crash?

Mr. Engen. Amazingly enough—and don't view this as a bureaucratic answer, please—the report has not been officially transmitted to me. However, that did not deter the FAA from doing things. As you know, Secretary Dole implemented the white glove inspection last year, basically as a result of that and other incidents.

We are very concerned with any airline that might have falsified records, and that is something that I personally will not abide. We have implemented more stringent inspection procedures throughout our inspector force, and that has resulted from our experience with Air Illinois.

MTS—LAWTON, OK

Senator Andrews. What is spent annually for the FAA Management Training School in Lawton, OK?

Mr. Engen. I am going to ask if Mr. Weithoner would be kind enough to provide that. I don't have that at my fingertips.

Mr. Weithoner?

Mr. WEITHONER. It is about $3.9 million for both the facility and the instructors that conduct the classes.

Senator ANDREWS. What will be the cost of relocation?

Mr. WEITHONER. We will not know the cost of relocation until we are through the competition for the new site to make the new selection.

Senator ANDREWS. When will you select a new MTS?

Mr. WEITHONER. The selection is expected to be in September of this year.

Senator ANDREWS. Can you provide an update on compliance with Senate Report 98-561, Instructions on the Type of Facility to be Selected?

Mr. WEITHONER. Yes, sir; we will supply that for the record.

[The information follows:]

In response to the instructions in Senate Report 98-561, the following language was placed in paragraph 13 of the solicitation for offers:

c. Priority consideration will be given to colleges and universities with strong aviation, business, and public administration programs as potential sites for management training school.

(1) If the offeror is a college or university, information concerning the curricula is required. For example, do you have a business program, public administration program, or an aviation program? From where do you draw your faculty and what are their backgrounds?

(2) If the offeror is not a college or university, are there such institutions nearby? If so, information on their curricula and faculty is required.

AIRWAY SCIENCE CURRICULUM

Senator ANDREWS. You are cognizant of that; you are going along with that.

Can you provide a status of the $5 million airway science curriculum grants included in the fiscal year 1985 budget?

Mr. WEITHONER. Yes, sir; we have received one application. A preliminary application was received in March of this year from the University of North Dakota. We have met with them. We expect to send them the grant application form this month.

We expect them to complete it and send it back.

Senator ANDREWS. OK. What consideration was given to including program management funds within the fiscal year 1986 operations request?

Mr. ENGEN. Program management funds?

Senator ANDREWS. I mean funds for the Airway Science Curriculum Program, within the 1986 operations request. The grants themselves come out of facilities and equipment. The program management funds come out of your operation funds. And we are assuming they are part of it.

Mr. ENGEN. They are. And the end product, of course, is the value we get from young people graduating, coming to us and joining the FAA.

Senator ANDREWS. How many staff-years do you assign to that project?

Mr. **Weithoner**. I would make a quick guesstimate that as of right now we are expending something on the order of 3 staff-years on that program.

Senator **Andrews**. How many airway science graduates does FAA plan to hire in the next 5 years? You have made a point of upgrading the work force as you bring new people in.

Mr. **Engen**. I have set a quota within the FAA that is my goal in order that we may draw forth the best from this program. That quota builds to a value of some 500, apportioned over nine regions. That is our goal in the outyears, and it will be basically straight lined from about 1987.

AIRPORT CERTIFICATION

Senator **Andrews**. Mr. Administrator, one final question. Then I want to recognize the fact that our two Mississippi Members of this subcommittee asked me to convey their regrets for not being able to be here today and express their interests in your program.

Both Senator Cochran and Senator Stennis are specifically interested in the problem as it relates to your airport certification exemption policies and their impact on businesses utilizing rural airports for charter passenger service.

I have backup information to questions they have on the subject. I will make this information a part of the record and will ask that you respond in writing for the record and to my two colleagues.

NEW YORK TRACON

Senator **Andrews**. One final oral question: When did FAA recognize the need for New York Terminal radar approach control facility capacity improvement?

Mr. **Engen**. Let me start to answer that, and then I will pass it to Mr. Luffsey.

Some time ago, as the system grew in complexity, and particularly in the Golden Triangle—the New York area where you have Newark, LaGuardia, and John F. Kennedy—we have seen that one airport really affects another airport to a great deal. You change the runway at one field, and it drags the ILS pattern over another field. So they are truly interrelated.

This really came into focus very vividly last summer, and it became evident to us that there was need for an upgrade quickly at that particular point.

Mr. Luffsey.

Mr. **Luffsey**. Yes, sir; actually, there were some indications as far back as 3 years ago that we may have a problem. To sort out what the problem and how to deal with it was not clear at that point.

It is obvious to us that we do not have the capacity we need at New York TRACON, and it is indicated by the analysis which indicates the number of tracks that we are going to need. We are starting to get some display flicker, and we are looking to a 1987 operational solution.

[illegible] AVAILABLE

But our programming solution is only a temporary fix at best, so we are seeking the funds to fix the New York TRACON problem.

Senator ANDREWS. Well, Mr. Administrator, doesn't this exacerbate the Amtrak problem we were talking about a while ago?

Mr. Engen. I think any traffic that goes into the New York area is going to be affected by this. I think that the need to upgrade the TRACON is very evident.

Senator ANDREWS. Yes; but you are right on the ragged edge of capacity there. What is being done operationally now to limit terminal use?

Mr. ENGEN. To what terminal use?

Senator ANDREWS. What is being done operationally now to limit terminal use, this terminal approach control facility which is loaded, we have just found; are you limiting its use?

Mr. ENGEN. No, sir; we are not. But again, I am going to ask Mr. Luffsey to talk in specifics. The TRACON is functioning. We see, as he pointed out, that it is becoming overburdened, and that is why we seek to increase its capacity.

Senator ANDREWS. Well, you are asking for $31.4 million to modify it, as we understand, in this budget.

Mr. LUFFSEY. That is correct, sir. That, of course, is the equipment fix. And we are in programming fixes to the problems as we see them now. They will carry us through 1987. So we don't have an immediate, this instant, problem.

In addition to that, we have done some things in the east coast plan in the early stages of implementation to adjust the flow. As a matter of fact, one of those adjustments that we will make will effect direct handoffs from Washington Center to the TRACON facility, rather than passing them through the New York facility, and that will accommodate some of the offloading of demand on the system itself.

Mr. ENGEN. Mr. Chairman, let me see if I can't go a little deeper into that and ask Mr. Pozesky to address the equipment, because that comes to the dollars you are talking about.

Senator ANDREWS. Well, the $31.4 million that you are asking for is equipment and the cost of doing this is going to be, of course, in addition to just the equipment request.

Have you undertaken any similar modification? Is this the first one that——

Mr. ENGEN. The simple answer: This is one and only. And if I could, I would like to have Mr. Pozesky tell you about the equipment.

Mr. POZESKY. Mr. Chairman, basically we projected a computer capacity problem in the future, and we are taking action to prevent that problem from actually materializing. We have gotten several things going. We are trying to improve the computer software right now in New York, to give us additional buffer for more capacity.

The $31.4 million asked for in the budget is to provide software and other improvements which will handle air traffic requirements until the midnineties when the present system will be replaced by advanced automation.

Senator Andrews. And you are ahead of the curve on this in your estimation, so that there will be no delay problems in the New York TRACON in the next year?

Mr. Pozesky. Not due to this problem, sir.

Senator Andrews. Pardon?

Mr. Pozesky. Not due to this problem.

Senator Andrews. No; providing you do not dump a lot of other flights into the area. I mean if you get the normal growth that you anticipate in that area, the fix that you have identified, $31.4 million for equipment plus personnel and all of the rest, will take care of the normal growth pattern in traffic in the New York area.

Mr. Engen. Yes, sir; again——

Senator Andrews. But again, Mr. Administrator, if you have an abnormal growth in the New York area, this might well exacerbate your problem.

Mr. Engen. Yes.

Senator Andrews. Senator Lautenberg.

AMTRAK CONTINUITY

Senator Lautenberg. Thank you, Mr. Chairman.

Admiral Engen, nice to see you again. I persist in following you from the Commerce Committee, now to the Appropriations Committee. I am determined to get a good working relationship with you, and they tell me that the place to do it is where the funding is.

I was interested to learn that the chairman had questioned you about what might happen in the event that Amtrak had to suspend operations in terms of how we might handle the traffic to Washington, the Northeast corridor. And I think that you said—correct me if I am wrong—that you did not expect Amtrak to be out of business.

I don't know whether you responded, Mr. Engen, to the possibility that it might. What would happen to our air lanes?

Mr. Engen. Senator, what I did say was that since it represents probably the most productive and paying route to passenger demand, that I thought it would be an attractive option for the private sector to continue rail service, that I did not think the rail service would stop.

However, if for some reason, yet unexplained, the rail service were to stop, we would indeed have a problem accommodating to all the traffic in the aviation system. I explained to Senator Andrews that at this point in time there are roughly 11 million passengers who use the Amtrak route, back and forth to New York-Washington basically, maybe Philadelphia and New York.

There are 9 million air passengers who use that. We can accommodate with the empty seats that we have today in the scheduled airlines, 5 million of those 11 million, if you just cut off the Amtrak service. That leaves a delta of 6 million out there.

And I think that is a sizable number. It causes——

AVAILABLE

FLOW CONTROL MANAGEMENT

Senator LAUTENBERG [presiding]. I don't want to pin you down. I don't want you to endorse Amtrak funding, although I would love to have it slip out.

It is fair to say in all seriousness, isn't it, that it would prevent us a heck of a problem moving people back and forth between these two critical population centers, the power centers or whatever? So that is one of the things that concerns us so greatly, just as an aside, in terms of the Amtrak continuity issue.

What actions have you taken besides—well, we heard a couple of things—to enhance the capacity at airports like Newark which has its very high rank among the busiest sites? And also, we always tend to talk about three airports in New York—and you know, again, I remind you that I served on the port authority and I used to do a lot of corporate flying out of Teterboro. The Teterboro Airport carries a fair amount of traffic. As a matter of fact, I think it ranks among the busier airports in the country.

Does anybody know where it stands in terms of movements?

Mr. ENGEN. I knew. Mr. Luffsey, do you? Bill Shea?

Mr. SHEA. Senator, I don't know the exact number, but it is probably one of the top 35 in terms of aircraft operations. If you include Kennedy and LaGuardia and certainly Newark, it is one of the top major operational areas in the world. So it is right up at the top 35, and with the rapid growth in the past 2 years, it may even have a higher national ranking today.

Senator LAUTENBERG. So that also competes for airspace in a very serious way.

Have you done anything to relieve the traffic conflicts that exist there, Mr. Engen?

Mr. ENGEN. Yes, sir; we have. And specifically, as a result of the delays last year and our trying to solve them, our air traffic organization rearranged the departures, the flow of departures into and out of the New York area, specifically recognizing that Teterboro and Newark interfaced. We have tried to change the routing and make it more flexible. We have tried to reroute and change the departures and arrivals to make them more flexible and have, to a certain degree, achieved that flexibility.

That has helped a good deal. Probably what has helped more than anything else, though, very candidly, has been the awareness on the part of the airlines that you cannot schedule 15 airplanes to depart at 8:01. It takes a certain period of time, and by realistically scheduling a major part—55 percent—of the delay problem was solved this last year.

Senator LAUTENBERG. Let me ask you this question. And again, forgive the redundancy if Chairman Andrews did ask some of these questions. What, if anything, in brief form if you will, have we done to enlarge the airspace.

Is that—obviously, it is not infinite—but can it be made substantially used through technology, more mechanical handling of flights, et cetera?

Mr. ENGEN. Senator Lautenberg, I did respond to that, but it is a good question, and I would like for Mr. Luffsey to cover again the four points that I made. And maybe he can do it in a different way that will show in the record and perhaps provide more depth.

Mr. LUFFSEY. Thank you, sir. Senator, there are some programs that we have implemented in terms of our flow management or flow control function. Those programs include en route loading. For example, above flight level 290, we can program what is going to happen traffic-wise and look in detail to the next hour, the next 2 hours.

And if required, we can move traffic around peak capacity-type sectors. In addition, we have implemented ESP, En Route Spacing Program. What that is really is a tactical——

Senator LAUTENBERG. That is a terrible inference if we are relying on the air controllers to use ESP. Go ahead.

Mr. LUFFSEY. That is why I spelled it out, sir—En Route Spacing Program. That is an online tactical system that evaluates a condition by sector and in fact manipulates the flow to put it in order.

It also infuses the departure traffic into the system as it evolves from the terminal into the en route airspace. And of course, we have a departure metering program, terminal type locations, that are being evaluated right in the New York area, as a matter of fact, even now.

On April 11, we will implement our enhanced east coast plan. We refer to it as the EECP, and it is directed at conserving fuel and optimizing descent profile, shortening routes and the like, to take some of the load off.

On that same day, April 11, we will put two additional sectors at the TRACON to deal specifically with Newark and the satellite airports. So we will give more specific attention in a control flow sense.

Senator LAUTENBERG. Where are they going to be located?

Mr. LUFFSEY. They will include also Teterboro. That is the New York TRACON.

Senator LAUTENBERG. Where is that?

Mr. LUFFSEY. That is in Westbury, Long Island. And we are looking into some remoting of displays to Teterboro also.

Mr. ENGEN. There is a related part which is the airport itself, and I know that you asked me before about this, and of your interest in it.

We have our National Plan of Integrated Airport Systems, or NPIAS, which is coming forward to Congress soon. In that plan, about 67 percent of the identified costs are for commercial service airports and about 10 percent are for reliever airports, and about 23 percent are for general aviation airports.

But the point I wanted to make was about 68 percent of the identified costs are for increasing capacity and expanding the system. So we recognize that the airport has a part of this, too. While the question you gave me was about airspace, the airport is clearly tied to the airspace. We must continue to have high-speed turnoffs in our airports; we must continue to have sufficient ramp space to get in and get out.

Senator LAUTENBERG. Mr. Engen, you indicated that you are going to cover 3.5 percent pay costs for FAA, partly via transfer of the North East Corridor Project in New Jersey, and we call that project the Atlantic City Rail Line. Obviously, we want to see that project go forward. Therefore, perhaps negating the transfer of funds that you are counting on.

What other options do you have to cover the pay increase if that transfer of funds is not approved?

Mr. ENGEN. Let me ask Mr. Plissner if he would please respond. I will have a few words in addition.

Mr. PLISSNER. I think there are the usual possibilities. We are already absorbing a great deal, so if this money did not become available, there is a potential for a supplemental appropriation. Of course, we are not asking for one in here. We have a very tight appropriation at this time.

Senator LAUTENBERG. It is fair to say that that is not the only way you are going to be able to continue to manage your expanding operations via the transfer?

Mr. ENGEN. It is a very real problem, and that is why we have managers and we are trying to deal with it, Senator.

Senator LAUTENBERG. You indicated that you reached your target, 14,300 controllers, although some of these are either getting training or still need training.

How many of the full capacity, the 14,300 that you cite, fall in the category of still requiring training?

Mr. ENGEN. I gave an answer earlier and I gave kind of a ballpark figure. Talking about those who are in the developmental pipeline as of March 1, I have 2,200 roughly—and I am going to say about 2,150 people in the developmental pipeline right now.

As I reported to you, sir, in our previous conversations, my goal is to get down to about 800 developmental controllers as a float. That is, we will always have that many.

I anticipate, and I have high confidence in this figure, that we will be down to some 1,100 controllers who are carried in the developmental status on September 30 of this year. That is our goal, and it looks like it is fully achievable.

That puts us within 300 of the number that we want. And if I might say so, sir, with each passing day I see the system improving from the standpoint of its training and its capability.

Senator LAUTENBERG. I hope so because traffic, we know, is increasing.

Mr. ENGEN. Yes, sir

Senator LAUTENBERG. The issue of who is a trainee and who is fully qualified isn't really simply indicating that you have a constant upgrading of education and training. The Jones Committee report indicated the perception in the centers is—and I quote: "The new persons were viewed as distractions or as adding to the workload, not as helping."

Eighty-seven percent of the team supervisors said the staffing levels were too low. Do you want to comment on that?

Mr. ENGEN. Yes, sir; I would.

With respect to your first one about the new person as a distraction, I think that is probably a true statement. You build a team and you are very close, and you get used to working together—it is like a basketball team or football team.

Senator LAUTENBERG. It is like a subcommitte in the Senate. [Laughter.]

The chairman is a very indulgent and very patient chairman.

JONES COMMITTEE REPORTS

Mr. ENGEN. I think that is true, and we want to make that as minimal as possible. But I cannot, unfortunately, bring in a 23-year-old with 40 years experience. I have got to bring in somebody who is entering the system. We need to deal with that, and we need to deal with those perceptions, and that is my goal.

I would also say that I see the same thing in aviation standards. When Mr. Broderick's group, for instance, has new aicraft inspectors, I hear the same comments with respect to aircraft inspectors. So what the Jones Committee report says on that score is factual and I am trying to deal with that.

Senator LAUTENBERG. I think you know that I believe that there is a reservoir or pool of trained folks out there and I have had several discussions with you on the subject, and when you were before this subcommittee last year, the subject of rehiring fired air traffic controllers came up in response to a question from Senator Andrews.

And in response to the question I asked you when I was sitting on the Aviation Subcommittee over at Commerce, you cited extreme negative response that you detected in the centers that you visited to this idea. And yet, in the Jones Report on the management employee relations, the issue was discussed. They found—and here again I quote: "The overwhelming majority of those interviewed did not mention the rehiring of fired controllers. Of those who did, the majority favored it as an immediate source of a badly needed skill."

Now, how do you account for what you found in the centers and what the Jones Report found?

Mr. ENGEN. I put a great deal of store in Larry Jones. I think he is a fine gentleman, and I think that the team that went out did exactly what I asked them to do; they came back and gave me an encapsulated view of the air traffic control system by visiting 12 places, including towers, flight service stations, and en route centers—12 individual geographic locations in June of last year.

Senator Lautenberg, as I have moved throughout this airspace and the entire United States from Alaska to Puerto Rico visiting our facilities, I have continued to pick up these comments. That is a personal observation on my part, sir.

Over a broad spectrum, I have not seen anything that has mollified that. There are those who will say this to me wherever I go. I have had people say to me, you know, it wouldn't bother me. But the tone has been as I reported to you, sir.

Senator LAUTENBERG. Your objectivity on this, Admiral Engen, you know that I differ very sharply with you on that issue. I think I have got to tell you, in all due respect, I think it is a nonsense issue. I think when you try to isolate the pockets of negative morale when you have such a serious problem, I think is really begging the question.

We are beyond the stage of punishment. This is so long since gone, if there are—and maybe there aren't any people left out there who even want the jobs back, but at a time when we were creaking under an overextended system and we needed help wherever we could get it, whether it was a new radar system, new flight patterns, whatever the resource was, I know that the system was crying for additional capacity.

And very frankly, Admiral Engen, and I say this professional to professional, your stubborness in this issue was something that I could not fathom. I know that you had an extensive career in the naval service, and that you had a strong belief or you could not have served in that capacity. The discipline was an essential factor in the management of a large and complex organization.

And to suggest that you could not get by the temperamental problems of those who might object to a management decision does not do the fine career that you have developed justice, honestly. Whether there is a further need for these people or not, I submit for the record that you have not fully searched the resource pool if you have not looked to that avenue.

And to kind of quote a Navy expression—I don't know who said it—but I think that the observations be damned. We had a problem to solve, and that would have been, I thought, as you have approached this job, solve the problem and not permit yourself to be set off track by complaints from here and there.

Mr. ENGEN. Senator, if I might, I hope that is not an issue between us, because I respect your view a great deal and I would not want you to think that I am intractable.

It was a problem delivered to me. What had gone before had gone before. I am trying to deal with it in the best way I can, and I hope that does not become an issue between us. It isn't as far as I am concerned.

Senator LAUTENBERG. No; it isn't for me. The issue for both of us is to get this system going.

Thank you, Mr. Chairman.

Senator ANDREWS [presiding]. Thank you, Senator. I think, as pointed out, the Administrator came into this long after that fight was pretty well over, and his options were totally different than it would have been if he had been early on.

SUBMITTED QUESTIONS

I have a number of questions by other members of the subcommitte that we would like to submit, Mr. Administrator, for the record.

[The following questions were not asked at the hearing but were submitted for response for the record:]

QUESTIONS SUBMITTED BY SENATOR ANDREWS

ELIMINATION OF AMTRAK

SENATOR ANDREWS: How many additional flights per day would be required at National, and the three New York area airports if Amtrak service were eliminated? What increase funding for controllers, and airport grants will be necessary in FY 1986 and beyond?

ANSWER: The Department does not agree that eliminating Federal subsidies for Amtrak will necessarily result in the elimination of Amtrak service. However, answering the question as stated, eliminating Amtrak service would undoubtedly impact air service in the Northeast Corridor, although we do not believe the impact would be all that significant.

The two major factors which influence travelers in selecting a mode of transportation are cost and convenience. The average Amtrak passengers trip on the Northeast corridor is less than 100 miles and since short-haul air travel is generally more expensive than train or bus, we anticipate that many of the Amtrak passengers would switch to bus if Amtrak service were eliminated. Some of the remaining passengers would switch to private automobile, and some might simply decide not to travel. Many passengers boarding Amtrak in towns en route between Washington and New York would probably not find it convenient to travel to an airport and would go by bus or private automobile.

No additional scheduled flights can be added at National Airport, as these are allotted and all slots are taken. In some cases airlines can add extra sections if flights are full, but it seems more probable that any new flights required would be added at Dulles or Baltimore-Washington.

We cannot at this time estimate what impact the elimination of Amtrak service would have on funding levels for controllers and airport grants. It is possible that airlines would be able to absorb the increased traffic by operating at higher load factors or by switching to larger capacity aircraft. If this occurred, the impact would be minimal. In any case, we do not anticipate we would need to request increased controller staffing or authorize additional airport grants in FY 1986.

TRUST FUND

SENATOR ANDREWS: Why does the budget propose the termination of intragovernmental interest payments to the Airport and Airway Trust Fund? How much interest will be transferred this year? When will such legislation be introduced?

ANSWER: Primarily because of penalty provisions built into the 1982 Act, actual appropriations from the Trust Fund for FAA's cost of operating the airport and airway system have been substantially lower than expected, and Trust Fund balances have increased accordingly. To help offset this increase, legislation will be proposed to suspend intragovernmental payments now being made from the general fund of the Treasury equivalent to interest earned by investing the unexpended balances of the Trust Fund in U.S. Securities.

SENATOR ANDREWS: What indications does the Federal Aviation Administration (FAA) have that the Authorizing Committees will consider and report such legislation before the FY 1986 appropriation is marked up this summer?

ANSWER: The Trust Fund legislative proposals will be sent to Congress in the very near future, and the Administration is confident that the Authorizing Committees will react to the proposals in a responsive manner.

SENATOR ANDREWS: What data was used by FAA to determine that the Trust Fund should finance 75 percent of FAA's operations costs? Was the data current, and, if not, is FAA planning to update it?

ANSWER: The financing of 75 percent of the Federal Aviation Administration's (FAA's) operations costs through the Trust Fund results from the Administration's overall goal to fund 85 percent of all of FAA's costs from the Trust Fund. The Trust Fund financing goal is based on historic data and analyses of Federal airport and airway facilities costs which attribute 85 percent of the costs to general aviation and air carrier users with the remaining 15 percent resulting from government and military use. A new cost allocation study is being initiated at this time and should be completed by February 1986.

SENATOR ANDREWS: What impact will increasing the Trust Fund monies going to operations have on FAA's other programs?

ANSWER: The increase in funds going to operations from the Trust Fund will have no effect on other FAA programs. All other authorized programs will continue to be funded 100 percent from the Trust Fund and at a level adequate to meet FAA's mandate. The National Airspace System (NAS) Plan will continue to be implemented on schedule with sufficient Trust Fund reserves to meet its requirements.

AIR CAPACITY

SENATOR ANDREWS: Administrator Engen has stated on numerous occasions the belief that airport capacity must be increased to accommodate predicted growth. How long will it take the Airport Capacity Program Office to identify and pursue measures to improve airport capacity and reduce delays?

ANSWER: The Capacity Program Office has been only recently formed. It has focused on establishing coordinated interfaces with airport organizations and users, tieing together existing airport capacity work within the agency and is also providing new emphasis and direction to FAA's capacity program. The Office is also developing an overall plan that will bring together both short and long range actions needed to improve the aviation delay problem.

The Capacity Program Office has identified a wide array of measures that have the potential to enhance airport capacity. These measures include providing additional airport instrumentation, possible modification of aircraft separation standards, improvements to terminal airspace procedures, and improvements to airport layouts which would consider new and modified runways and taxiways at individual airports. Since the capacity and delay problem is not one which can be fully solved by FAA, we are working closely with user and industry associations such as the Airport Operators Council International and the Air Transport Association. We are also forming Task Forces, consisting of the airport owner, airport users and FAA technical staff, at individual capacity impacted airports. These Task Forces will review capacity problems at the individual airports and make recommendations for short term and long term improvements. Three or four of these Task Forces will be formed this year and if additional funding is available, six or more are planned for FY 1986.

FAA currently has programmed significant improvements to airport instrumentation. These plans are currently being reviewed with user organizations and airport owners. Technical work into validating the safety of modifying certain separation standards, such as reducing the spacing requirements for parallel runways and converging runway approaches, is under way and should be completed within a year. In the area of terminal area procedures, the FAA is implementing several unique operational ideas designed to expedite the movement and handling of air traffic. We fully expect to see results from these efforts within a year. Improvements to airport layouts are largely long term efforts that are under the control of individual airport owners. FAA does provide support to airport owners through its Airport Grant program. We are giving capacity projects priority whenever possible.

AVIATION SAFETY INSPECTORS

SENATOR ANDREWS: What explains the delay in FAA's ability to respond to this Committee's request that a report be provided on inspector training and supervision?

ANSWER: The Committee staff requested that the report should be submitted prior to the FY-1986 hearings. The FAA endeavored to provide the latest information to the Committee, and misjudged the timing of the coordination procedures for the report.

NATIONAL TRANSPORTATION SAFETY BOARD

AIR ILLINOIS INVESTIGATION

SENATOR ANDREWS: What improvements have been made overall in the inspection program given the following Air Illinois investigation conclusions: The carrier's organization structure allowed merger of inspection and mechanic personnel, despite 14 CFR 121. Air Illinois was not required to correct the organization chart.

ANSWER: Post Accident Recertification of Air Illinois placed emphasis on the inspection department. Particular attention was paid to department leadership, inspectional procedures and the separation of inspection functions from maintenance in accordance with FAR 121.365(c). Certification was not approved until complete conformity with FAR 121 was obtained.

SENATOR ANDREWS: Inspection logs were post-dated, and carrier's clipboard showing required inspection dates was hidden from FAA Maintenance Inspectors.

ANSWER: FAA Notice 8320.301, Required Inspection Item (RII) Requirements and Aircraft Maintenance Logbook Deficiencies, was issued on September 17, 1984. This notice emphasizes to inspectors the requirements for air carrier RII programs and the importance of aircraft maintenance logbooks and records inspections. It also provides procedures to be reviewed by principal maintenance inspectors when performing inspections on assigned operator's maintenance organization. This notice information will be incorporated in Order 8320.12 or its revision, and should help to prevent a reoccurrence of the situation you described.

SENATOR ANDREWS: FAA Order 8320.12 does not require cross-checking of inspection forms to verify information.

ANSWER: Order 8320.12, Air Carrier Airworthiness Inspector's Handbook, provides specific procedures to be used when performing inspections; it does not contain specific instructions to cross-check various forms against other forms to verify the information, as that has been for years an accepted technique which we expect will be used by inspectors when deemed appropriate.

New FAA inspectors receive informal on-the-job training from journeymen inspectors that includes inspection and surveillance techniques and the cross-checking of operator forms and other maintenance records. Updated changes to this order, or its revision, will include emphasis on special techniques and procedures to be used by inspectors when performing inspection and surveillance of operators maintenance records and forms in order to emphasize the value of techniques such as this.

SENATOR ANDREWS: An airworthiness inspector who was neither trained nor qualified to perform avionic inspections was assigned to perform these duties.

ANSWER: Although the airworthiness avionics inspector did not receive specific formal Hawker-Siddeley airplane training, the types of avionics/electronics systems installed in the airplane are similar to systems installed on other airplanes in which the inspector had received training.

The complexity and sophistication of today's aircraft demand effective utilization of technical personnel. Each employee and each level of agency management are responsible for assuring that manpower resources are effectively and efficiently used. Both the airworthiness maintenance inspector and the airworthiness avionics inspector were trained and qualified in their respective technical duties. They were also qualified to perform duties which overlapped into each other's specialty, and they coordinated their activities with each other when doing so.

In the performance of surveillance, the primary responsibility for the type of work performed must be related to specific systems and subsystems. The airworthiness maintenance inspector has the primary responsibility for powerplants and airframes, whereas in the field of instruments and electronics, the primary responsibility is assigned to the airworthiness avionics inspector.

No system within an aircraft is an isolated entity. The proper and safe operation of the aircraft is dependent on the combined performance of all systems, and it follows that this same combination, in the form of teamwork and coordination, must be reflected with the district offices. It is this point which has received more emphasis as a result of these findings.

SENATOR ANDREWS: The Principal Operations Inspector (POI) had not performed as a Part 121 POI since 1969 and did not receive retraining before assuming Air Illinois duties. He was additionally responsible for 5 Part 135 operators, airman qualification, and proficiency checks.

ANSWER: The FAA has taken the following action to strengthen its inspection procedures and the qualifications of its inspectors following the Air Illinois investigation.

In Great Lakes Region, all airline operating certificates have been evaluated to assure the level of expertise needed for full and complete surveillance and the best qualified inspectors have been reassigned as appropriate. A new program has been developed for formal training of inspectors over a period of 4 years to supplement on-the-job training. A step-by-step checklist to guide inspectors in the certification of new airlines is being developed.

Nationally, a total of 166 new air carrier inspectors have been hired to bring the total to 674. An analysis of the staffing needed for commuter airline inspectors is now underway and we expect a report in early May. A refresher seminar on certification and surveillance has been developed for airworthiness inspections. More than 600 of them will have participated in the seminar by June 1985. Operations inspector's handbooks for Parts 121 and 135 were reviewed and updated, and new sections drafted to provide guidance for special inspections. The handbooks for airworthiness inspectors (air carrier and general aviation) are being rewritten and combined to elaborate on and clarify critical areas.

SENATOR ANDREWS: The accident airplane flight logbook contained information on generator load malfunction. Since this wasn't entered in the discrepancies section, the Principal Operations Inspector did not detect the problem. The POI did not detect that captains were not entering maintenance malfunctions as required by Federal Regulations.

ANSWER: As a result of the problems noted at Air Illinois concerning the proper recording of maintenance malfunctions, specific action was taken. First, this area was made a special emphasis item during the National Air Transportation Inspection (NATI) during which all FAR Part 121 air carriers and FAR Part 135 commuters were inspected. Second, the General Aviation Safety Inspection (GASA) of Air Taxi Operators, now underway, requires inspectors to look into maintenance logs and corrective actions taken. During both of these national efforts, enroute, ramp, records, and maintenance facility inspections have been used to verify compliance with the rules applicable to aircraft related discrepancies.

SENATOR ANDREWS: FAA's initial response was that nothing had been found to warrant suspension of Air Illinois' operating certificate. Yet on December 2, 1983, during the NTSB hearing, FAA placed Air Illinois under 100 percent surveillance inspection.

ANSWER: The FAA did not find, during its initial investigation of Air Illinois, sufficient information to warrant suspension of the air carrier certificate. As more information became available through additional surveillance, it was determined another special inspection was necessary. This indepth inspection identified the areas of noncompliance that led to the surrender of the Air Illinois' certificate.

INSPECTORS ELIGIBLE FOR RETIREMENT

SENATOR ANDREWS: What percentage of the inspector work force is currently eligible for retirement? What percentage will be eligible by September 30, 1986? How is FAA planning to replace these experienced inspectors? What will be the effect on FAA's inspection responsibilities with the probable near term retirement of a large number of experienced inspectors and the recent influx of new inspectors?

ANSWER: Based on employment as of March 31, 1985, seventeen percent of the inspector work force are eligible for optional retirement. An additional six percent will be eligible by September 30, 1986. Although the number of eligibles appears high, actual numbers of yearly retirements are equal to the normal attrition rate experienced by the agency, therefore there should be no adverse impact on FAA's inspection responsibilities because of the age and length of service of the inspector work force.

SENATOR ANDREWS: How long does it take for a newly hired inspector to become fully proficient and effective? What workload management changes are being made by FAA during the period when its more experienced inspectors are retiring and its new inspectors are not fully proficient and effective?

ANSWER: It takes from three to four years for a newly hired airworthiness inspector to become fully proficient and effective, and from two to three years for a newly hired operations inspector. The critical path for both types of inspector is defined by the availability of training courses. The agency's in-house training capability is not designed to accommodate surge hiring practices; therefore, significant delays may occur while a newly hired inspector waits for a slot in a required training course. Other variables which affect the newly hired inspector's development include the availability of journeyman inspectors to provide formal on-the-job training, the newly hired inspector's professional background, and his/her learning capability.

Major workload management changes will result from an on-going study called Safety Analysis Functional Evaluation (SAFE). The objective of Project SAFE is to analyze today's air carrier operational environment in order to identify, define, and assign priorities to air transportation job functions. Manpower requirements for each job function will be determined, and work program guidelines will be developed. The products of Project SAFE will be invaluable tools to field office managers. In addition to Project SAFE, the Aircrew Program Manager (APM) program, which delegates certain airman certification functions to the airline industry, is proving to be successful and continues to expand. The APM program permits field office managers to shift manpower away form one-time certification functions, thus permitting more frequent and higher quality surveillance functions. Also, all airline operating certificates have recently been evaluated to determine the level of inspector expertise needed for full and complete surveillance; and the inspector workforce has been adjusted appropriately on both a temporary and permanent basis. To enhance the quality of work functions, a refresher seminar on certification and surveillance has been developed for airworthiness inspectors. More than 600 inspectors will have attended the seminar by June 1985. Finally, inspector handbooks are being rewritten and consolidated in order to clarify critical areas and to improve job function effectiveness and quality.

INSPECTOR TRAINING

SENATOR ANDREWS: Have all of the 166 newly-hired inspectors completed mandatory and job required training. If they haven't, why not? Are they scheduled for these courses? If not, why not? On the average, how long did the new inspectors have to wait before taking their basic FAA indoctrination course?

ANSWER: It is reasonable to expect that all the new inspectors have not completed all the FAA job required training since it takes an average of 18 months to 2 years to complete. We can safely say at this time though that by August 1985, all air carrier inspectors (operations and maintenance) brought on board to date since February 1984, will have received their basic indoctrination. Since we have concentrated so heavily on indoctrination training during FY-85, the FY-86 training program should allow the scheduling of other job required courses not obtained in FY-85.

Because of the influx of new inspectors, there have been delays in obtaining indoctrination for some of them. We estimate that it takes an average of 6 months for a newly assigned inspector to attend basic indoctrination. Our current policy states that a new inspector should receive indoctrination and one, or sometimes two (depends on inspectors discipline) other job required course(s) within one year of assignment.

SENATOR ANDREWS: What type of adjustments to the training program did FAA make to accommodate the new hires? Were the changes made in anticipation of the surge or after the new inspectors were on board? What training program innovations were made or are planned to get new hires quickly qualified to perform inspections?

ANSWER: In March 1984, right after Secretary Dole's direction to hire the additional air carrier inspectors, we made two types of adjustments to the FY-84 training program. We increased class sizes and added additional classes of the indoctrination courses. In some cases, this entailed the cancellation or deferral of other training for inspectors. Because many inspectors came on board near the end of FY-84, we had to make the same adjustments to the already established FY-85 program. These adjustments were made in anticipation of the surge of new inspectors; however, many of the additional classes were added after the inspectors came on board.

We plan to review our training identification/scheduling process to ensure it allows the most timely scheduling of training once identified.

SENATOR ANDREWS: The aircraft industry is constantly developing and placing into operation substantial advancements in electronic equipment, including computers, electronic cockpits, and sophisticated navigational and communication equipment. How is FAA's training program keeping the inspectors current with these advancements?

ANSWER: The Office of Airworthiness, in conjunction with industry, has recently completed a series of technical courses and seminars to keep airworthiness avionics personnel current with state-of-the-art advancements and more are planned.

In 1983, 51 airworthiness avionics inspectors and engineers attended a special Boeing 757/767 Digital Avionics Systems 3-week training course.

In FY 83 and 84, the Office of Airworthiness with industry support completed three, 3 1/2-day Loran-C/VLF Omega Navigation Systems Workshops.

In 1984, the Office of Airworthiness in conjunction with three electronic flight instrument systems (EFIS) manufacturers (Bendix Avionics, Collins Avionics, and Sperry) completed seven 3-day Electronic Flight Instrument System Workshops.

Beginning October 1, 1985, we will provide state-of-the-art digital avionics systems training to 15 airworthiness avionics inspectors. This will be the first of a series of 5-week classes to be provided by the Boeing Aircraft Company, the successful bidder. The course will be provided to approximately 150 airworthiness avionics inspectors, and will consist of 5 weeks of intensive training on the principles and application of digital avionics related to actual aircraft digital electronic systems and related computer programming. Course completion will enable the airworthiness avionics inspector to make timely and effective decisions regarding installations, operation, and maintenance of state-of-the-art digital avionics systems. Our goal is to have 10 classes in 1985 and 1986.

We are working actively with personnel of our FAA Academy, Oklahoma City, in the updating of all of our avionics courses, in our continuing efforts to provide state-of-the-art training to our airworthiness avionics inspectors.

SENATOR ANDREWS: During 1983 and 1984 what were the experience and training of the principal operations, maintenance, and avionics inspectors assigned to Air Resorts, Provincetown-Boston Airlines, American Central, and Galaxy Airlines? In addition to their principal duties for these carriers, what other duties were they responsible for and what percent of their time is spent on these other duties? Were their experience and training generally of the level expected of a principal inspector? Were they devoting an adequate amount of time to these carriers?

ANSWER: The overall experience level of the inspectors assigned to these carriers during 1983 and 1984 ranged from 4 to 24 years with the agency and 1 to 15 years as a principal inspector. All of these inspectors were fully qualified to perform duties and had received required training as defined in appropriate handbooks.

All were assigned other duties according to the demands and complexity of the certificate holding office. Examples are other air carrier certificates, airman certification work, repair stations, mechanic schools and associated demand work. The amount of time spent on these duties based on estimates from the inspectors range from 30 to 95 percent. These figures are subjective in nature due to day-to-day changes to the environment and reflect definite peaks and valleys in the amount of time dedicated to a carrier depending on specific circumstances such as special investigations, public interest, the addition of new aircraft, etc. For example one principal operations inspector was assigned 8 other Part 121 carriers and performed 2 airline certifications while assigned to Galaxy, which he estimated took approximately 95 percent of his time during this period. On the other hand, inspectors assigned to Provincetown-Boston (PBA) spent

100 percent of their time on duties related to this carrier during the special inspections of 1984.

A review of the experience levels and training accomplishments for all principal inspectors assigned to those carriers indicates that, without exception, their backgrounds met or exceeded the levels expected for specialists of this type.

The amount of time spent by inspectors working with specific operators is subject to many factors. Demand work since deregulation has increased and may have influenced surveillance activities in some instances. New national guidelines to set priority have been drafted and should serve to insure emphasis on, and proper staffing for, surveillance functions.

It should be noted that the FAA is taking action to insure proper allocation of inspector resources and to support staffing adjustments if necessary. Project SAFE will provide specific job task analysis information pertaining to field inspector's duties. Additionally, several actions pertaining to inspector training have been initiated and revisions and rewrites of guidance and reference material are underway.

CONTROLLERS ELIGIBLE FOR RETIREMENT

SENATOR ANDREWS: How many controllers does FAA estimate will retire in 1986 and how many are projected for this year (1985)? Compare these levels to each of the Post-PATCO years. [Historic level -315/Year]

ANSWER: We are projecting some 490 controller retirements (towers and centers combined) in 1985. In 1986 we see some 500 controllers retiring. For comparative purposes, we had 317 controllers retire in 1982; 331 in 1983; and 401 in 1984. All of these numbers include facility supervisory and staff personnel, as well as controllers.

HUMAN RELATIONS

SENATOR ANDREWS: What were the results of FAA's Employee Survey?

ANSWER: The FAA received responses from 55 percent of the work force to the July 1984 Employee Attitude Survey. Besides pay and job security, employees responded positively to the high performance expected of them, describing their duties as clearly defined and with sufficient time to do them. More than 80 percent rated their supervisors as administratively and technically competent. Approximately 70 percent felt challenged by their jobs. Some 80 percent of respondents indicated respect for the people they work with and a willingness to go to them with a work problem. More than three-fourths of the respondents said they experienced a high degree of cooperative teamwork among employees. Generally, however, the survey disclosed a longstanding need for improvement in the way supervisors have dealt with employees on a personal level. About half of the employees felt their supervisors had not provided adequate personal support, such as praising them for a job well done or counseling them on ways to improve their performance. The same employees felt they have lacked adequate opportunity to participate in job and work group decisions or in staff meetings. About 50 percent of the respondents did not believe that management was committed to improving human relations and more than two-thirds reported no visible change or only modest positive change in the agency's emphasis on managing people since the human relations program began. Nearly 55 percent of those responding felt that management generally failed to fully consider the impact of change on personnel, or keep employees informed of happenings within the agency.

SENATOR ANDREWS: To what extent is controller burnout still a problem?

ANSWER: Controller burnout does not appear to be a problem. Interviews with controllers have indicated that burnout is not a safety issue. The responses received to questions about burnout appeared to be related more to overall dissatisfaction than any other single issue.

SENATOR ANDREWS: How many Hotline reports have been received, on what subjects, and what response has FAA made?

ANSWER: Since inception of the Hotline on August 6, 1984, 945 reports (inquiries) have been received. The subject areas covered, in descending order of frequency are : Employment and Promotion, Classification and Pay, Insurance and Annuities, Personnel Relations, Personnel Management (General), Payroll and Leave, Performance and Utilization, Air Traffic Management (General) then all other categories. Within 14 calendar days of receipt of an inquiry, a written response is mailed to the person initiating the inquiry. The written response must address the problem or inquiry and state what action/correction can be accommodated or cite the appropriate authority which prohibits the action or change. Interim FAA responses are not permitted.

CONTROLLER OVERTIME

SENATOR ANDREWS: What portion of the controller workforce is currently working more than 40-hour weeks?

ANSWER: Most recent data indicates that 13 percent of the controller workforce is working more than 40 hours per week.

SENATOR ANDREWS: What are the reasons for working overtime? Please list in order of importance.

ANSWER: Overtime is worked to sustain a normal flow of air traffic when one or more of the following conditions occur; controllers take sick leave, the skill level of the controllers scheduled for duty is not adequate, controllers take two week vacations. Overtime is also used to a limited extent to permit on-the-job training to be accomplished, or for specific human relations activities.

SENATOR ANDREWS: What portion of the overtime is scheduled versus unscheduled?

ANSWER: 72 percent of overtime worked is scheduled with 28 percent unscheduled.

SENATOR ANDREWS: What actions has FAA taken to reduce the need for overtime?

ANSWER: The largest overtime use in recent years has been to compensate for staffing shortages, or shortages of experienced controllers at various facilities. At present, most of the staffing shortages, and most of the overtime usage, is in the center option. In the current fiscal year, we are making a major effort to improve center staffing and thereby reduce the need for overtime in FY 1986. We increased the number of developmentals to be hired and trained in FY 1985, and we adjusted the training schedules to conduct the majority of the en route training classes in the first half of the fiscal year. These actions will increase overtime use slightly in FY 1985, but in the longer term, will reduce the requirement.

SENATOR ANDREWS: What is FAA's goal with respect to overtime levels both in terms of the number of hours weekly per controller and annual costs? When will this goal be reached?

ANSWER: The FAA has a study underway to determine the optimum level of overtime use relative to other staffing resources. The study is expected to be completed in August. Pending completion of the study, we have estimated that between 600,000 and 700,000 hours of overtime will be needed in centers and towers each year for the foreseeable future. This level is expected to be reached for the first time since the strike in FY 1986. In this budget we are requesting just under $21 million to fund approximately 630,000 hours of overtime in centers and towers. If all the 630,000 hours were used by operational controllers, this level of use would equate to aproximately 1.1 hours per controller per week.

SENATOR ANDREWS: If controllers decline to work scheduled overtime, what other measures does FAA take to handle traffic?

ANSWER: To date we have not had that problem. There has been an adequate number of controllers available to work overtime. Thus the FAA has not had to take any other measure to handle the traffic.

SENATOR ANDREWS: Please provide overtime costs and hours for supervisory and non-supervisory air traffic controllers and supervisors at centers and terminals, for FY 1980 - to date.

ANSWER:

CENTERS

	Supervisory		Non-supervisory	
	$(thousands)	Hours	$(thousands)	Hours
9/30/84 - 3/2/85	$1,539.2	39,634	$ 7,850.4	268,758
10/2/83 - 9/29/84	3,819.3	102,010	16,509.3	570,549
10/3/82 - 10/1/83	5,302.6	136,430	17,102.6	562,091
10/4/81 - 10/2/82	7,605.7	217,063	21,167.5	720,260
FY 1981*	-	-	8,973.5	313,410
FY 1980*	-	-	2,651.5	111,560

TERMINALS

	Supervisory		Non-supervisory	
	$(thousands)	Hours	$(thousands)	Hours
9/30/84 - 3/2/85	$ 949.5	28,067	$ 2,757.0	111,638
10/2/83 - 9/29/84	3,003.2	90,431	6,995.1	274,522
10/3/82 - 10/1/83	5,262.2	152,668	8,440.9	336,307
10/4/81 - 10/2/82	9,272.4	306,980	11,590.9	470,044
FY 1981*	-	-	10,249.0	418,616
FY 1980*	-	-	5,474.3	265,206

* A breakout of overtime for supervisor and non-supervisors for FY 1981 and FY 1980 is not available. The hours and dollars shown are totals.

SENATOR ANDREWS: At what point is it more economical to hire more controllers than to pay controllers overtime?

ANSWER: The FAA has a study underway to determine the optimum level of overtime use relative to other staffing resources. Last year, we gave the Committee our estimate that the optimum overtime use in centers and towers would be between 600,000 and 700,000 hours per year. Pending the results of the study, which is to be completed in August, that would still be our estimate.

SENATOR ANDREWS: What is the FAA policy with regard to first-line supervisors working traffic--are they to work traffic only the minimum amount necessary to remain proficient and current, or are they to provide a pool to supplement the controller workforce in working traffic?

ANSWER: First-line supervisors are not considered as a pool to supplement the controller workforce. Supervisors must work operational positions a sufficient amount of time to meet proficiency and currency standards. They also work operational positions in lieu of calling controllers in for short periods of overtime.

SENATOR ANDREWS: Are there any individual ATC facilities which have not been able to permit controllers to schedule leave in accordance with FAA's normal policy? If so, please specify them. Also, provide the reasons they have not been able to return to normal and the anticipated dates when those facilities will reinstitute normal leave.

ANSWER: With very few exceptions, air traffic facilities have been able to permit controllers to schedule leave in accordance with FAA normal leave policy. Normal leave policy for centers and towers is that every reasonable effort will be made to grant requests for at least 2 consecutive weeks of vacation annual leave during prime vacation periods. Otherwise personnel are eligible for at least 2 consecutive weeks of leave some other time during the leave year. Consistent with operational needs, longer periods may be approved. At facilities where operational necessity does not permit controllers to expend more than the 2 weeks guaranteed, the leave is restored and carried over for future use when time permits.

SENATOR ANDREWS: Are controllers in any way unable to take needed sick leave because of workload, staff shortages, or other reasons? If so, provide details and actions FAA is taking to remedy such situations.

ANSWERS: Sick leave is not denied when personnel are sick. However, some sick leave has been denied and will continue to be denied for operational necessity and staffing where prior approval is required for an individual to use sick leave for medical, dental or optical examinations.

SENATOR ANDREWS: Some ATC facilities have reached or exceeded their post-strike staffing goals, while others have not. For those which have reached their goal yet continue to work overtime, how does FAA anticipate they will be able to handle projected higher levels of traffic for the next several years until new equipment associated with the NAS plan becomes available?

ANSWER: Some facilities have reached their overall controller work force staffing requirement, but are still deficient in terms of operational controllers. At these facilities extensive overtime will be required until their operational controller goals are reached. As an example, the terminal option reached 100 percent of its FY 1985 operational controller goal in December 1984, and overtime use in the terminal option is back down to normal levels. In the center option, only 82 percent of the operational controller staffing requirement has been achieved, and overtime use remains abnormally high. As the experience level of the controller work force improves, overtime use will decrease to normal levels. However, additional positions are being requested in this budget to handle projected activity increases.

SENATOR ANDREWS: For facilities which have not reached their staffing goals, what are they doing to manage the current traffic levels? When does FAA expect them to reach full staffing?

ANSWER: As indicated earlier, the centers are the facilities that have not reached all of their staffing goals. Only two centers have the required number of operational controllers. To manage the current traffic levels, these facilities are using large amounts of overtime and are continuing to employ rehired annuitants. Our FY 1985 goal of 5,189 operational center controllers will be achieved by the end of FY 1986. However, we are requesting additional center positions in FY 1986. If these positions are authorized, our FY 1986 operational controller goal will be higher than it is now.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: When will Congress receive this year's update on the National Airspace (NAS) Plan and backup funding assumptions? What major revisions does it contain?

ANSWER: The NAS Plan will be delivered to both houses of Congress during the week of April 8. Major revisions to this year's update are:

(1) The executive summary and overview have been rewritten to clarify the goals and objectives of the Plan and to outline accomplishments to date.

(2) All projects have been updated to reflect current program schedules.

(3) Discussions of project status and program relationships have been added to the front of each chapter.

(4) Four new projects were added to reflect new requirements that fall within the framework of the NAS Plan. These are:

a. Offshore Flight Data Processing System (OFDPS). Replaces the outmoded and unmaintainable system at the Honolulu, Hawaii, Air Route Traffic Control Center (ARTCC).

b. Sustain the New York TRACON. Provides hardware and software system improvements to enable this facility to accommodate increased air traffic loads until the Advanced Automation System under the Area Control Facility concept is implemented.

c. LORAN C Systems. Provides additional Loran C transmitting stations to fill the mid-continent "gap" and adds monitors to permit increased use of LORAN C as a supplemental navigation system.

d. Long-Range Radar Replacement. Provides replacement of obsolete en route primary radar equipment in the late-1990's.

(5) The projects for early combination of Radar Approach Control in ARTCC and establishment of multiple Central Repair Facilities (CRF) have been deleted because these projects were shown not to be cost-effective.

SENATOR ANDREWS: We understand the Presidents outyear budget numbers for each fiscal year through FY 1990 are $1.164 billion and the NAS plan assumptions do not match. What is the extent of this mismatch in dollars and programs for FY 1987 - 1990?

ANSWER: The lower level outyear numbers are based upon budget considerations and reflect estimates that do not necessarily reflect the requirements necessary to achieve the goals of a plan. The current version of the NAS plan is based upon the resource requirements required to achieve its goals within the planned time frame and costs.

SENATOR ANDREWS: What specific programmatic adjustments are being made to the NAS Plan to address this issue? (FY 1987 planning numbers are received from OMB in the FY 1986 passback.)

ANSWER: We are proceeding with our plans to execute the NAS Plan in a manner that will allow us to complete it on time, within cost and with the fullest benefits possible.

SENATOR ANDREWS: What is the status of work on the legislation to reauthorize the Aviation Trust Fund? When will this legislation be introduced?

ANSWER: A Federal Aviation Administration (FAA) task force has been formed and is presently considering the issues relating to the new authorizing legislation. After full Executive Branch review, the legislation will be submitted to Congress in 1986 well in advance of the expiration of the current legislation.

SENATOR ANDREWS: Since the Senate-reported budget resolution reconciles the Commerce Committee to reduce the FY 1986 Aviation Trust Fund levels to match the President's budget request, shouldn't the Department expedite its review of the Trust Fund? Will the legislation assume decreased aviation taxes to better match reduced FAA spending to date and lowered outyear budget projections?

ANSWER: We do not anticipate, under the President's budget, any requirement to reduce aviation taxes. In fact, the President's appropriation request for FY 1986 exceeds the estimated revenues from aviation user taxes during the period. Thus, if Congress enacts the Administration's proposals to cease the payment of interest on the Trust Fund balance and to eliminate the penalty provisions in the 1982 Act, the balance will decline during FY 1986 and in the near term. The FAA is presently reviewing the Trust Fund and National Airport and Airway system programs in its preparation for new authorizing legislation. The new legislative proposal will request tax authority to match the Administration's long-term anticipated program levels.

SENATOR ANDREWS: What is the current estimated cost of the National Airspace System (NAS) and why has it changed:

ANSWER: The estimated cost of implementing the NAS Plan remains $11.7 billion dollars for the Fiscal Year 1982 through Fiscal Year 1992 time frame. While there have been individual yearly adjustments to the plan the total estimated cost of the plan remains unchanged.

SENATOR ANDREWS: What is the current status of the Plan's overall schedule and how much in benefits are still achievable?

ANSWER: Some near-term and intermediate term projects have proceeded more slowly than planned, resulting in some delays in cost improvements. The longer term evolutionary improvements and the capabilities they represent are still expected to be achieved on schedule. The 1985 NAS Plan provides up-to-date schedule information and chronicles the progress made since the last edition. Benefits, after adjustment for changes in traffic forecasts, budget reconciliations, and the System Engineering and Integration contractor's audit recommendations concerning the methodology used to calculate labor requirements, continue to be substantial and achievable. The current projection of savings in FAA operations costs resulting from the implementation of the NAS Plan through the year 2000 is $18.3 billion.

SENATOR ANDREWS: Provide the original and current estimated savings/cost avoidance for the 1985, 1990, and 2000 period. Please explain the differences.

ANSWER: The following table summarizes the original and current estimated NAS Plan savings:

NAS PLAN ESTIMATED SAVINGS

(DOLLARS IN BILLIONS)

	1985	1990	2000
Original Plan (1981)	$1.5	$6.7	$24.5
Current Plan (1985)	$ .9	$4.4	$18.3

The principal cause for the differences between the benefits stated in the original and the current plan is the revision in aviation activity forecasts. Other factors include adjustments for reconciliations with actual budget submissions, revised workload estimates, and acceptance of the SEI's audit recommendations concerning the methodology used to calculate benefits.

SENATOR ANDREWS: Are capacity increases from modernization a secondary priority to system cost reductions? What increased air traffic control capacity will be realized by NAS Plan implementation? To what extent are users costs (for delays) taken into consideration when reviewing NAS Plan priorities?

ANSWER: The NAS plan was developed from a systems engineering viewpoint with each effort being interrelated and interdependent of each other. Each effort must be implemented in a required sequence if the full benefits of the plan are to be realized. Thus, neither capacity nor cost reductions is a higher priority than the other. For example, we must implement the Host computer replacement to provide the required capacity in the 1987, 1988 timetable or suffer the consequences of saturation of the 9020A computers. Coincidentally, we are pursuing on a priority basis development of the Advanced En Route Automation (AERA) system to provide higher levels of automation software programs that are critical to the achievement of productivity gains forecast for the mid-1990's. The fully implemented NAS Plan will provide the capacity and capabilities to meet forecasted demand for services into the next century.

NAS PLAN SAVINGS

SENATOR ANDREWS: The House Report (pg. 20) requires FAA to be prepared to provide specifics on NAS Plan personnel savings. Please identify these.

ANSWER: Personnel savings through the NAS Plan period will be accomplished through technological change, systems performance improvements to sustain the present system, and corresponding actions initiated by FAA management to:

1. Increase air traffic controller and flight specialist productivity by a factor of two by the year 2000, compared with 1980 (this translates into a savings of 8,000 positions from the 1980 levels and an additional 13,000 positions which would otherwise have been required to accommodate increasing demand);

2. Reduce field maintenance staffing by 1/3 by the year 2000 compared with 1980, through facilities modernization and productivity improvements (11,602 x 1/3 = 3,867 positions).

Personnel savings from 1980 to the present include 2,322 field maintenance positions and 4,820 air traffic/flight service specialist positions. In addition, productivity improvements have allowed the FAA to meet increasing workload which would have required 1,300 additional field maintenance positions.

SENATOR ANDREWS: Why has the trend in NAS Plan savings estimates been so consistently downward?

ANSWER: The predominate reason for the downward trend in NAS Plan savings estimates is lower forecasts of aviation activity.

SENATOR ANDREWS: Identify the specific NAS Projects which have savings qualified as questionable by Martin-Marietta.

ANSWER: The System Engineering and Integration (SEI) contractor's audit concluded that the 1984 NAS Plan had overstated cost savings resulting from NAS Plan implementation by approximately 10%. This overstatement, however, was not attributed to questionable savings in specific projects. The SEI's audit concluded that the 1984 NAS Plan had underestimated the labor requirements to operate and maintain the NAS in the 1990 to 2000 period. The resulting audit revision reduced savings by $500 million. Audit follow-up activities included a reconciliation of the NAS Plan to five-year operating plans which further reduced savings by $700 million. Finally, estimated savings declined by $400 million due to the lower air traffic activity forecasts. The 1985 NAS Plan adjusts the benefits projections from $19.9 billion to $18.3 billion to reflect these conclusions.

AIRSPACE ACTIVITY

SENATOR ANDREWS: The agency's February 13, 1985, forecast dramatically reduces the percentage growth figures for 1982 - 2000 in the airport operations (down about 50 percent), FSS services (20 percent), and general aviation hours flown (37 percent). What impact does this downward adjustment have for the NAS Plan savings, particularly flight service station savings?

ANSWER: NAS Plan projected savings in field operating costs are the sum of reductions in expenditures from 1981 levels and avoided cost increases due to increased demand in a no-NAS-Plan, more-of-the-same scenario. Downward adjustments in the percentage growth of aviation activity decrease the potential for avoiding cost increases. Downward adjustments in the percentage growth of aviation activity do not adversely affect reductions in expenditures from 1981 levels which are specific objectives of the Plan.

OPERATIONS

SENATOR ANDREWS: Why doesn't the budget show a linkage between the dollars it spends for operations and NAS Plan expenditures and savings?

ANSWER: The Federal Aviation Administration, with the assistance of the Systems Engineeering and Integration Contractor, is presently developing an analysis of the beneficial effects of the NAS plan on Air Traffic and Airway Facilities Operations costs. One product of this analysis is a report which discusses the differences between the NAS Plan and the budget for the window years 1985 and 1990, and the basis for and derivation of NAS Plan costs and savings. Other analysis underway includes a detailed examination of the savings by fiscal year. A linkage between the operations budget and the NAS Plan expenditures is difficult because of their different timing, structure, and use. The NAS Plan is a high-level, long-range strategic plan that necessarily uses simplified calculations and assumptions for the alternatives considered. Operating budgets, on the other hand, deal with much shorter time periods, and provide greater financial detail. The objective of better integrating the plan and the budget processes through efforts such as those descibed above is being actively pursued through the collective efforts of the Office of Management and Budget, the Federal Aviation Administration, and the Systems Engineering and Integration contractor.

AIR TRAFFIC CONTROL

SENATOR ANDREWS: One of the justifications for the fiscal year (FY) 1986 operations increase for air traffic control centers is the increase in sectors. How many sectors will be increased and at what centers in FY 1986? What operational benefits will result?

ANSWER: We cannot accurately forecast the exact number of additional sectors that will be required in FY 1986 due to the constantly changing traffic patterns and activity changes. We recognized when we developed the FY 1986 budget that activity increases would cause additional sectors to be activated. Therefore, we included 10 additional sectors in our submission, with the understanding that the positions would be given up if the need did not develop. In fact, the 10 additional sectors provided in the FY 1985 budget were established before the end of FY 1984, also, 20 sectors were established in FY 1985 to accommodate additional traffic increases. The additional sectors requested in FY 1986 could be established in any of our centers depending on the activity increases or traffic pattern changes. However, we expect the bulk of the additional sectors will be established in centers located in the Eastern United States to provide relief to the congestion on the eastern flyways. Establishing additional sectors as the need arises will avoid further congestion and system overloading that causes delays with the associated economic losses to the users.

SENATOR ANDREWS: Will the refinement to the center and tower staffing standards reduce overtime? What overtime savings will result in centers and towers in FY 1986? Will the FY 1985 delay in implementation of the contract tower program jeopardize the ability to decrease tower staffing by 358 positions in FY 1986? Why is there a net increase in tower funding despite the staffing reduction.

ANSWER: The adjustment of the draft center staffing standard increases the number of positions and will eventually reduce overtime, but not in FY 1986. None of the trainees hired in FY 1986, as a result of the position increase, could reasonably be expected to reach operational controller status that year. The draft revised terminal staffing standard results in a net decrease in staffing, and will not reduce overtime. However, overtime use in the terminal option has returned to normal levels. We believe most of the controllers at the 14 operating FAA towers which are planned to be contracted out in FY 1985 will elect to transfer to other locations. Consequently, the implementation delay does not affect the planned staffing decreases. We will simply hire fewer controllers in FY 1986 than we otherwise would have. The staffing reductions produce savings of $6,597,000, which are more than offset by annualization costs and funding for FY 1986 within-grade increases and grade-to-grade promotions.

SENATOR ANDREWS: Does the $957,000 reduction in FY 1986 flight service stations operations request stem from consolidations exclusively? Is the FY 1986 cost of the contract studying privatization included in the request for $185,285,000? If so, how much? What is the FY 1985 cost for this study? When will the study be completed?

ANSWER: The $957,000 reduction does not include any reduction for the consolidation of flight service stations. It is the result of an increase of $9,193,000 for within grade and grade-to-grade promotions for FY 1985 (part year) and FY 1986, merit pay increases, an additional holiday in FY 1986, annualization of the 1985 pay raise, funds for 285 other than full-time-permanent positions, a contract weather program,and a $10,150,000 decrease consisting of the 5% pay cut, prospective A-76 contracts, and the privatization of flight services.

There are no funds to conduct privatization studies in our FY 1986 submissions. The study presently underway will cost approximately $575,000, and will be completed by May 15, 1985.

FLIGHT SERVICE STATIONS

SENATOR ANDREWS: How has FAA responded to the Committee's letter of January 30 requiring: 1) expedited testing and installation of Model I equipment; 2) recovery through penalty clauses of slippage costs; 3) better tracking of personnel savings?

ANSWER:

1. In response to the Congressional guidance to expedite testing and installation of Model I equipment, the FAA has applied a concentrated effort to clearly define all detailed activities required to complete testing, make available extra personnel resources to accomplish validation of system compliance, and elevate the testing/implementation management to ensure high visibility of all activities. The activities assembled include all operations, performance, support and maintenance tests required to fully validate system operation. Delivery of equipments will be accomplished beginning in May 85 through November 1986 as presented

in the January Hearings. Testing and preparation for installation remain on schedule

2. In subsequent negotiations for future contracts with E-Systems, FAA will consider the use of incentive provisions for delivery, as well as the use of liquidated damages for late deliveries where actual damages will be incurred as a result of those late deliveries.

3. The January 30, 1985 letter from the Senate Appropriations Committee stated: "Actual savings from consolidations are to be tracked, especially given the reduction since last year's report in total flight services and services per position."

FAA has taken action to develop a system to track actual costs and savings of the FSS consolidations at a regional level. The position savings of the FSS system will also be tracked, but at a national level.

FLIGHT SERVICE STATIONS

SENATOR ANDREWS: How many flight service stations (FSS) will be consolidated in FY 1986? Will that effort result in the position savings of 643 cited on page 25 of the justification?

ANSWER: The 643 position savings are not all in the flight service station area, There are 300 in air traffic towers, 223 in systems maintenance, and 120 in flight service stations. Based on our plan we estimate that 34 flight service stations will be closed in FY 1986. However, the savings of 120 positions are not associated with consolidation. Position savings in the consolidated system will not be realized until direct user access devices are implemented.

SENATOR ANDREWS: What are the current plans for residual FSS beyond 1990?

ANSWER: Prior to full consolidation, we plan to keep a number of FSS's in operation outside of the AFSS's. As we prove that the needs of the flying public are being fully met, we will consolidate these remaining FSS's into the AFSS's. By the early 1990's, it is likely that most of the personnel and functions will have been consolidated into the 61 automated flight service stations.

SENATOR ANDREWS: Why does the justification (pg. 27) indicate that 32 automated FSS will be occupied in FY 1986 when page 14 of the December 1984 facility consolidation report indicates 24 Automated Flight Service Station (AFSS) opened in 1985 and 1986?

ANSWER: Page 14 of the Consolidation Plan and page 27 of the Congressional budget justification are actually consistent.

The Consolidation Plan (Orange Book) cites only those 24 locations that are to be established during fiscal years 1985 and 1986 that have facility consolidation actions associated with them. Consequently, the Consolidation Plan figures would not include either the four facilities established in fiscal year 1984 or the four facilities planned for establishment in the fiscal year 1985-86 time frame. The four facilities to be established in fiscal years 1985-86 are not addressed in the Consolidation Plan, since no facility consolidations are required during the three fiscal years period covered by the December 1984 Plan.

The 32 facilities listed on page 27 in the Congressional budget is a cumulative total through fiscal year 1986, a figure which includes the four facilities that were established prior to fiscal year 1985 as well as the four facilities planned for establishment in the fiscal year 1985-86 time frame.

SENATOR ANDREWS: With the FY 1985 and 1986 consolidations of only 47 flight service stations and commissioning of 24 automated stations, is it still necessary to hire 285 flight service assistants to "support...a smooth transition to the AFSS system?" Where are the savings shown for the personnel reductions associated with consolidation? What is the cost of these flight service assistants in FY 1985?

ANSWER: As we indicated, these positions are required to provide for a smooth transition to the AFSS system by providing backup personnel to allow for additional training associated with the new automated systems and expanded areas, and increased attrition. These are temporary employees that will be hired for a period of one to four years. There are no personnel reductions associated with consolidation. There is a reduction of 120 positions based on an increasing capability by the private sector to provide flight services. The primary benefit of consolidation is productivity increases. Future position savings will result from the implementation of user access devices. We have not hired any assistants thus far, but we expect hiring to commence in the fourth quarter of this fiscal year. Our FY 1985 submission provided 285 positions but only 76.5 FTE, or approximately one quarter year funding of $1,090,000.

FLIGHT SERVICE STATION EQUIPMENT

SENATOR ANDREWS: When will Model II be installed at automated flight service stations?

ANSWER: Production of the Model II system is expected to begin just after completion of final Model I testing in May 85. Based on that plan, we anticipate that the first Model II system will be delivered and installed at the FAA;s Technical Center in mid to late 1987. The first delivery to field locations will take place in late 1987 with commissioning scheduled for mid-1988. Schedule for delivery to the field might be impacted by the privatization study.

SENATOR ANDREWS: What is the status of FAA consideration of commercial weather briefing and flight planning services as alternatives to the present flight service station automation plan? As components of Model 2, as required by the Committee's January letter?

ANSWER: Partly in response to the Committee's January letter, the FAA initiated a study to address the question of the availability of comparable commercial alternatives to the present flight service station automation plan. The preliminary results of that study are expected to be available in May. In parallel with that effort the FAA is looking into commercially available weather and flight data systems that could have an application for future automation requirements. The results of this effort should be available later this year.

SENATOR ANDREWS: Has FAA evaluated vendor proposals to provide automated flight services to users?

ANSWER: The FAA has received and reviewed unsolicited proposals from vendors. Further consideration of these proposals will depend on the completion of our study on FSS privatization. Our preliminary information indicates that users across the nation would have access to the private systems.

SENATOR ANDREWS: Has the existence of a total system comparable to FAA Model I and Model II as claimed by the AVCOMPS vendors been validated?

ANSWER: It is the FAA's understanding that members of the AVCOMPS Council believe they can provide direct access services similar to those services planned as enhancements to automation. The FAA has initiated a study to look into the availability of comparable private sector systems. This study in part will determine what systems are presently available in the private sector and if they are capable of providing similar services to those planned for the Model I, Model II or direct access automation systems. It is expected that the initial results of this study will be available in May.

SENATOR ANDREWS: If so, are the services available from one vendor or must the total system be provided by a consolidation of vendors?

ANSWER: The study previously mentioned will also address if the services would be available from a single vendor or if multiple vendors would be required to provide a comparable level of service.

SENATOR ANDREWS: Has the cost of any currently available system(s) been compared with the projected costs of the FAA system? If so, what were the results? If not, are there any plans to do so?

ANSWER: Again, the study which was initiated in February will address the cost of currently available private sector systems and compare them to projected FAA system costs.

AUTOMATED FLIGHT SERVICE STATION COMMISSIONINGS

SENATOR ANDREWS: The locations shown on page 29 of the justification for Automated Flight Service Station (AFSS) commissioning in FY 1986 do not match the December 1984 report on facilities, as follows:

Budget FY 86 Commissionings	December 1984 Report
Fort Dodge, Iowa McAlester, Oklahoma	Were scheduled for FY 1985 commissioning
New York/W. Pennsylvania Williamsport, Pennsylvania	Are no longer appearing as FY 1986 commissionings
Chesterfield, Virginia	Cannot be located in Dec. 1984 report
Wichita, Kansas	Was scheduled for FY 1987 commissioning

Why were these adjustments made without notification to the committee?

ANSWER: There have been no adjustments made to the information submitted in the December 1, 1984, Facility Consolidation Report. The automated AFSS commissionings listed on page 29 of our FY 86 budget request, contained some error's. For example:

Fort Dodge, IA, and McAlester, OK, are 1985 commissionings.

New York/W. Pennsylvania site has been selected, it is Elmira, NY, and is a 1986 commissioning. Williamsport, PA, is also a 1986 commissioning.

Chesterfield, VA, is in error; the correct location is Chesterfield (St. Louis), MO, which is scheduled for commissioning in 1987.

Wichita, KS, is still scheduled to be commissioned in 1987.

The correct schedule for 1986 planned AFSS commissionings is as follows:

California
  Riverside
  San Diego*

Florida
  Miami*
  St. Petersburg

Illinois
  Kankakee

Minnesota
  Princeton

Nebraska
  Columbus

North Carolian
  (site not selected)

New Jersey
  Millville*

New York
  Elmira

Pennsylvania
  Williamsport

South Carolina
  Anderson

Tennessee
  Nashville

Utah
  Cedar City

* These AFSS facilities do not require consolidation of an FSS facility prior to commissioning; as a result, they did not appear in the facility consolidation report of December 1, 1984.

A-76

SENATOR ANDREWS: The justification (page 26) indicates that 402 Full-time Equivalents were reduced in FY 1985 from increased contracting-out. What types of contracts have been awarded to date and what level of cost savings compared to direct Government provision of service is realized?

ANSWER: Most FY 1985 contracts being awarded as a result of our A-76 program are firm fixed price. Typical activities contracted are ADP operations, word processing centers, engineering drafting, mail/messenger services, warehousing/ supply, and maintenance of facilities and equipment. Based on past experience, we estimate the level of cost savings that result from contract conversions in FY 1985 will be 10-20% less than Government operation.

SENATOR ANDREWS: Are the 558 Full-time Equivalents reduced in FY 1986 because of new areas of A-76 application, or mainly a follow-on and expansion of current A-76 contracts?

ANSWER: Generally the A-76 savings anticipated in FY 1986 are not related to earlier A-76 contracts. Most activities to be reviewed are new candidates.

NEW TOWERS

SENATOR ANDREWS: Why are the four new airport towers funded in FY 1985 (Dillingham, Alaska; Prescott, Arizona; San Luis Obispo, California; and Fort Pierce, Florida) not going to be commissioned until FY 1986? What role could a staffed tower have played in the San Luis Obispo crash in 1984?

ANSWER: The commissioning of a control tower facility is a complex process. Included in this process are site surveys, site leasing, and site adaptation of design standards. Following this is a procurement cycle to provide a construction contract, the actual construction contract time, and finally the installation of government furnished equipment. This process takes approximately two years to complete.

If a control tower had been in operation at the time of the crash near San Luis Obispo airport the tower would probably have exchanged visual flight rules (VFR) general traffic information to both aircraft.

AIRPORT DEFEDERALIZATION

SENATOR ANDREWS: What is the status of the airport defederalization study? The budget document proposes substantial reductions in airport grants in 1988 and beyond. Will this be reflected in the legislation for reauthorization of the trust fund?

ANSWER: The airport defederalization study is presently undergoing final review within the Department prior to submission to the Congress. In regard to the proposed airport grant levels in 1988 and beyond, all of the appropriate options and issues will be examined during our review and development of proposals for new aviation legislation. These issues would include those which will affect dollar levels such as defederalization.

SENATOR ANDREWS: Which airports could be defederalized?

ANSWER: The airport defederalization study will contain an analysis of the significant impacts on airport development of various levels of defederalization. Until the ramifications of defederalization are better known, it is inappropriate to specify the number of airports involved.

TRAFFIC CONTROL STATISTICS

SENATOR ANDREWS: Last year's justification estimated FY 1984 traffic as follows: 156,700 daily takeoffs and landings; 85,500 instrument flights; 166,300 flight services and a daily average of 856,700 passengers. This year's justification provides FY 1986 projections showing 12 percent more takeoffs and landings and 27% more daily passengers than FY 1984. What are the actual FY 1984 levels and currently estimated FY 1985 figures for these categories? Is the expected growth realistic?

ANSWER: The FY 1984 activity counts for three of the activities were generally right on forecast: takeoffs and landings, 0.5 percent below forecast; IFR aircraft handled, 1.3 percent above forecast; and domestic passengers, 0.2 percent above forecast. Flight service station activities were 9.7 percent below forecast. These comparisons are shown in the table below. Based on 5 months actual

data, it appears that the 1985 forecast, except for flight services, is very realistic.

Average Daily Traffic

	1984			1985	
	Actual	Forecast	Forecast Variance	Forecast	Yr/Yr Change from Actual
Takeoffs and Landings	155,890	156,712	(0.5)	163,014	4.6
IFR Aircraft Handled	86,575	85,480	1.3	89,863	3.8
Flight Services	150,137	166,301	(9.7)	163,288	8.8
Domestic Passengers	858,082	856,712	0.2	921,644	7.4

INSTRUMENT LANDING SYSTEM

SENATOR ANDREWS: Will a revised ILS programming be submitted as a result of the recommendation by the Air Transport Association for airport capacity improvements?

ANSWER: We prefer not to do so. Every airport recommended by the Air Transport Association (ATA) to receive an ILS is an airport already scheduled to receive a precision guidance system. Each airport is scheduled to have an MLS installed on a runway other than the one designated by ATA for a new ILS Regarding timing, the FAA can restructure the current MLS buy so as to provide an MLS on the newly designed runway in the same time frame that we can buy and install an ILS. This probably means early 1988.

The FAA wants to maintain equilibrium provided by the current ILS/MLS policy, while still fostering ATA's participation in the MLS program. We believe the policy of installing MLS in lieu of ILS has significant value, and it would eliminate the need for reprogramming an additional $8.25M in FY 1985.

AVIATION SAFETY ANALYSIS SYSTEM

SENATOR ANDREWS: Since 1980, FAA has had underway the Aviation Safety Analysis Sytem (ASAS) to modernize the field offices. We understand that the initial focus was on office automation, but in 1983 the so-called "Mark I and II" plans were approved. These plans will automate many regional programmatic activities, such as Aviation Inspectors' Reports. Why weren't the Mark I and II initiatives folded into the original ASAS plan?

ANSWER: The initial focus was on office automation, through the Field Office Modernization Program. This program was initiated in the late 1970's. The information processing hardware acquired under this Program formed the foundation for the Aviation Safety Analysis System. This System is designed to provide an effective and timely mechanism for the collection, storage, dissemination, and analysis of data and was formalized in 1983 through inclusion in the Information Resources Management Plan approved by the Administrator. The Mark I and Mark II phases are integral parts of this present ASAS plan, and represent a natural evolution of the earlier versions of the plan.

SENATOR ANDREWS: What has been obligated in each Fiscal Year for ASAS? What is requested in FY 1986 and the outyears?

ANSWER: The following budgetary funding by Fiscal Year was obligated for ASAS:

1979	1980	1981	1982
$500,000 (Thousand)	$900,000 (Thousand)	$3.0 (Million)	$6.3 (Million)

1983	1984	1985
$7.2 (Million)	$1.2 (Million)	$5.0 (Million)

Estimated projected funding by Fiscal Year for planned ASAS development is as follows:

1986	1987	1988
$ 7 (Million)	$12.0 (Million)	$12.0 (Million)

SENATOR ANDREWS: In a July 23, 1984 letter to Jim Burnett, Chairman of the National Transportation Safety Board, the FAA Administrator responded to the Board Recommendation (A-84-8) that inspectors have aircraft failure trend information. The FAA responded that its Service Difficulty Program (SDR), as part of ASAS, would be "fully implemented in Headquarters, Regional and Field facilities by May 1985". What is the current date for SDR implementation? What explains the delays?

ANSWER: The FAA is in the process of making its Service Difficulty Report (SDR) data base available electronically to all its inspectors. Training in the use of the SDR data base (and the other data bases in the Enforcement Information Subsystem) has been completed in one region. Training is scheduled to proceed on a region-by-region basis, reaching total implementation by the last quarter of 1985. Completion of this process was somewhat delayed past the original target date due to unanticipated contracting and technical difficulties which have since been resolved.

SENATOR ANDREWS: To what extent were ASAS Mark I and II components reviewed, during the National Air Transportation Inspection Program ordered by the Secretary last year, to ensure that priority was placed on automating inspection reports?

ANSWER: During the National Air Transportation Inspection (NATI) program, ASAS Mark I and Mark II initiatives were reviewed to ensure that existing requirements and development efforts would support identified NATI requirements. The ASAS Work Program Management System (WPMS) which was under development during the NATI initiative, provides the capability to automate inspection reports. Implementation of WPMS began in October, 1984 and was completed by March 1, 1985. Development of WPMS was, and is, the highest priority among ASAS Mark I programs.

SENATOR ANDREWS: In what timeframe will NTSB and FAA have a joint use accident data system? How long has this project been in the planning stages?

ANSWER: Although there has always been a considerable amount of data exchange and cooperation between the FAA and NTSB, a formal agreement to design a joint use automated data base suitable for national implementation was reached in May 1984. This agreement calls for a requirements analysis, feasibility study, system specifications development, and other essential steps necessary to construct such a system. The current schedule calls for prototype system testing to begin in December 1985 and national implementation by July 1986 subject to mutual acceptance.

HOST COMPUTER SYSTEM

SENATOR ANDREWS: Will the successful contractor for the Host Computer System be selected in July 1985 as originally planned? Is the rest of the implementation plan still on schedule, including having the systems operational in 1987?

ANSWER: The Host Computer System acquisition contract will be awarded in July 1985. The implementation plan is on schedule, including the planned operational readiness date of October 1986 for the first site.

SENATOR ANDREWS: When will the Source Evaluation Board review the Host competitor's Acquisition Phase proposals?

ANSWER: The Source Evaluation Board began reviewing Host Computer System Acquisition Phase proposals in February 1985, and will complete the evaluation in time to award the contract in July.

SENATOR ANDREWS: In what respects has the Advanced Automation Program Office improved in the area of formally documented plans to clarify design competition responsibilities and project dates, in response to the Inspector General report?

ANSWER: The finding stated in the above OIG report was:

> "The FAA's plans were incomplete and untimely for managing and monitoring the Advanced Automation Program."

The FAA does not agree with this finding or the statements supporting it in the OIG report, because they are based on the false premise that completion of all formal plans is necessary prior to the award of any contracts in order to effectively manage those contracts.

It can be stated unequivocally that all planning necessary for effective management of the Host Computer System and Advanced Automation System Design Competition Phase contracts had been completed and that processes and procedures for managing the contracts were in place prior to the contract awards. Furthermore, the additional planning necessary to support management of the respective Acquisition Phase contracts is proceeding as scheduled. This planning has fully implemented Department of Defense Instruction 7000.1, "Resource Management Systems of the Department of Defense," Department of Defense Instruction 7000.2, "Performance Measurement for Selected Acquisitions," and DARCOM Pamphlet 715-5, "Cost/Schedule Control Systems Criteria Joint Implementation Guide." In addition, the principles of acquisition management contained in OMB Circular A-109, Major System Acquisition, have also been fully implemented.

In reference to the premise of the OIG finding that all formal reports must be completed prior to award of a contract, it is generally recognized that planning for a large program such as the Advanced Automation Program is a continuing and iterative process which evolves as the program matures. This planning approach, which is the one used for the Advanced Automation Program, is often referred to as the "rolling wave" concept of planning. In rolling wave planning, emphasis is placed on the near-term planning to support program management needs in the near or immediate future. Longer-term planning continues concurrently and additional planning tasks are completed to support future program management needs when they are scheduled to exist. This continuing planning depends heavily on data and information being developed by the contractors during the course of the program. Schedules exist for the completion of the continuing Advanced Automation Program planning tasks and future documents in conformance with the needs for contract management.

NOISE COMPLIANCE

SENATOR ANDREWS: One of the provisions included by Congress in the FY 1985 appropriations bill was the noise exemption for Miami and Bangor, Maine. Please outline the steps FAA took to implement this provision. The U.S. Circuit Court of Appeals handed down a decision last Friday criticizing FAA's application of noise exemption, calling it "grossly inconsistent and patently arbitrary". How do you respond?

ANSWER: As soon as the Continuing Resolution for Fiscal Year 1985 (Public Law 98-473) was signed and section 124 of that act became effective on October 12, 1985, FAA issued a notice implementing its provisions. The notice (49 FR 44349, November 6, 1985) explained to all potential petitioners the procedures to be followed in seeking an exemption, and the information required to be included. Under the provisions of that section, FAA received 32 individual petitions for exemption. Of these, 25 were granted. The remaining seven were denied because the petitioners did not meet the requirements of the law.

We are currently examining the decision of the United States Court of Appeals for the District of Columbia Circuit to determine what effect that decision will have on the three cases involved and the remainder of the cases still before the court. We will proceed in accordance with the court's direction.

SENATOR ANDREWS: Will the problem of non-compliant aircraft solve itself with the increased availability of hush kits? How many such kits has FAA certified?

ANSWER: Ultimately, the problem of the noisiest aircraft will be resolved by the installation of "hush kits" on most of the existing noncomplying aircraft, and by the elimination from U.S. operations of those noisiest aircraft for which no "hush kits" are being developed.

Currently, FAA has issued supplemental type certificates (STC) to COMTRAN, Ltd., for "hush kits" for Boeing 707-300B and 707-300C models. We expect to be able to issue STCs soon to two other manufacturers of "hush kits" for Douglas DC-8-62 and DC-8-63 aircraft. In all, FAA has received applications for 16 "hush kit" development projects, but we do not foresee completion of most of those until late in 1985. There are no development projects underway for certain of the oldest models, such as the Boeing 720, the Convair 990, and the Douglas DC-8-20/-30/-40 models.

SENATOR ANDREWS: Provide for the record a summary of noise exemptions requested of the FAA since the enactment of PL 98-473, the Continuing Resolution, and the current status of exemptions granted.

ANSWER: A summary of the exemption petitions requested since the enactment of Public Law 98-473 follows:

STATUS OF PETITIONS FOR EXEMPTION AND RULEMAKING

PETITIONER	DOCKET	AIRCRAFT	FR PUB	TYPE	COMMENTS DUE
CARIBBEAN AIR CARGO CO	24288	(2) B707-351C	11/08/84	GRANT	11/28/84
BUFFALO AIRWAYS	24289	(1) B707	11/08/84	GRANT	11/28/84
TRANS-MEDITERRANEAN AIRWAYS	24293	(8)B707-320	11/08/84	DENIAL	11/28/84
RDC MARINE	24297	(2) B707-441	11/08/84	DENIAL	11/28/84
SKYSTAR INTERNATIONAL	24308	(1) B707-300	11/28/84	DENIAL	12/18/84
HAWAIIAN	24326	(2) DC-8	11/28/84	GRANT	12/18/84
SOBELAIR	24327	(1)B707 1-FLT	11/28/84	DENIAL	12/18/84
EAS	24333	(1) B707-320	11/28/84	DENIAL	12/18/84
STEWART AIRPORT	24335	AIRPORT	11/28/84	DENIAL	12/18'84
AIR TRANSPORT INTERNATIONAL	24338	(2) DC-8-33	12/24/84	GRANT	01/14/85
VARIG (PL)	24345	(2) B707-300		GRANT	
AEROMAR (PL)	24346	(2) DC8-54		GRANT	
VARIG	24350	(5) 707-320C	12/24/84	DENIAL	01/14/85
SURINAM AIRWAYS (PL)	24351	(1)DC-8-62		GRANT	
AER TURAS TEORANTA (PL)	24352	(1)DC-8-63F		DENIAL	
TRANS GLOBAL AIRLINES	24356	(4) DC-8-55	12/24/84	GRANT	01/14/85
FAUCETT (PL)	24357	(2)DC-8-52		DENIAL	
RICH (PL)	24358	(2)DC-8-62		GRANT	
ARROW AIR (PL)	24359	(9)DC-8-62/63		GRANT	
LAB (PL) (SEE DOCKET 24406)	24360	(2)707-323CF		GRANT	
FLORIDA WEST (PL)	24361	(1) B707-331		GRANT	
FAIR AIR (PL)	24362	(1)CV-880		GRANT	
AERONAVES DEL PERU (PL)	24363	(2) DC-8-55,61		DENIAL	
FAST AIR (PL) SEE DOCKET 24053	24364	(1)707-320C		GRANT	
LINEAS AEREAS PARAGUAYS (PL)	24365	(1)DC-8,(1)707		GRANT	
CHALLENGE AIR TRANSPORT (PL)	24366	(1)707-330		GRANT	
ECUATORIANA (PL)	24367	(2)707-321		GRANT	
MINERVE	24368	(1)DC-8-62	12/24/84	DENIAL	01/14/85
TAR (PL)	24369	(2)707		GRANT	
HAWAIIAN	24370	(2)DC8-63	12/24/84	DENIAL	01/14/85
GLOBAL (PL)	24371	(1)707-331C		GRANT	
LAN-CHILE (PL)	24372	(1)707-385C		GRANT	
TAMPA (PL)	24373	(2)707-300		GRANT	
CONNER AIRLINES (PL)	24381	(2)DC-8-33 1-21.1-62		DENIAL	
NATIONAL AIRLINES	24383	(3)DC8-63	12/24/84	GRANT	01/14/85
PAN AVIATION (PL)	24384	(1)707-321		GRANT	
ROYAL AIR MAROC	24392	(1) 707-320C	01/16/85	DENIAL	02/05/85
AMERICAN TRANS AIR	24396	(3) 707-123B		GRANT	
PENINSULA SEAFOODS	24399	(1)DC-8-55F	01/16/85		02/05/85
NATIONAL AIRLINES (PL)	24405	(1) DC-8-63F		GRANT	
AECA (PL)	24419	(1) DC-8-54		GRANT	
FLYING TIGER LINE	24420	(1) DC-8-61	02/01/85	DENIAL	02/20/85
SAMOA AIRLINES	24421	(1) B707-351	02/01/85	GRANT	02/20/85
AAS	24439	(1)B707/MAINT	02/01/85	DENIAL	02/20/85
SOUTHERN AIR TRANSPORT	24442	(3) B707-320C	02/01/85	GRANT	02/20/85
GLOBAL INTERNATIONAL	24478	(1) 707-331	03/14/85		04/03/85
MME FARMS	24480	(1) 707-323 1FLT		GRANT	
FAST AIR	24481	(1)707-321C	03/14/85		04/03/85
SKYSTAR INTERNATIONAL	24578	(4) B707-300			
DALLAH AVCO TRANS ARABIA	24579	(1) B707-123B			
BALAIR AG	24580	(1) DC-8 2FLT			

NUMBER OF PETITIONS 51

CENTERS

SENATOR ANDREWS: Provide additional details on the need to add 648 positions in FY 1986 for centers because of the change in the en route staffing standard. What is the relationship between this $9.3 million item and the request for an additional $15.6 million due to "Modification of Structured Staffing for nonradar controllers."

ANSWER: The $9.3 million for additional positions, and the $15.6 million for modified structured staffing are two separate issues. The 1985 en route staffing standard provided for a 7 day a week staffing, and historic annual and sick leave usage. The draft revised standard used for the FY 1986 submission more accurately states the situation as to employee availability/non-avail-

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ability. It provides for all leave, details, training, and all other situations that require the controller to be away from the control position. The draft revised standard provides 457 additional positions. The remaining 191 positions are required to staff additional sectors resulting from increased activity. The $15.6 million for the modification of structured staffing will fund promotions for 1,465 employees resulting from the elimination of separate staffing categories for radar and nonradar controllers, and allows all controllers to progress to the radar controller level without competition.

SENATOR ANDREWS: Why does the 648 position increase only translate into 416 full-time equivalents?

ANSWER: Full-time permanent positions include both filled and unfilled positions. Full-time equivalent represents compensable work years and reflects total hours funded. Due to hiring delays caused by training capacity limitations, and losses due to training failures and withdraws, it is not possible to start FY 1986 with the additional 648 people on-board and then maintain that level throughout the entire year. 416 FTE's is our estimate of the funding required.

CONTRACT TOWERS

SENATOR ANDREWS: The justification shows increases in FY 1986 of $2.7 million to fund the 45 FY 1985 contract towers and $0.5 million to fund an additional 10 towers in FY 1986. Where are the savings shown for decreased operational costs? What is the savings?

ANSWER: The $2.7 million increase is to provide full-year funding in FY 1986 for the 45 towers contracted out in FY 1985 and funded for an average half-year in the FY 1985 appropriation. The increase in contract funds for the 10 additional towers to be contracted in FY 1986 amounts to $550,000, representing average half-year funding. The total FY 1986 savings for decreased operational costs at the 24 operating towers which will be contracted out by the end of FY 1986 amounts to $2,111,000. These savings are not specified in the justification, but are included in the $5,597,000 savings listed under planned program decreases and attributed to the revised staffing standard.

SENATOR ANDREWS: How many of the original 15 locations were operational by the end of FY 1984, as testified to last year? When will the Committee be able to review the 30 towers proposed for FY 1985?

ANSWER: At the end of FY 1984 8 locations were operating under the contract tower pilot program. As of April 12, 1985 an additional 4 towers have been contracted out under the pilot program with the remaining 3 locations presently scheduled to be in operation as contract towers by the end of FY 1985.

The place names for the 30 towers to be contracted under the national low activity (VFR) Level I tower program in FY 1985 are to be announced on April 16, 1985. They are:

o Towers that are presently temporarily closed:
Benton Harbor, MI, Akron-Fulton, OH, Marion, IL, Paducah, KY, Valdosta, GA, Athens, GA, Plainview, TX, Hobbs, NM*

o FAA towers presently open to be contracted:
Dubuque, IA, Hagerstown, MD, Wheeling, WV, Ann Arbor, MI, Bloomington, IL, Bloomington, IN, Lebanon, NH, Worcester, MA,

Pocatello, ID, Aspen, CO, Greenville, MS, Kinston, NC, South Lake Tahoe, CA, Salinas, CA

o We plan to start negotiations with Lakeland, FL, as a test location for non-Federal sites, and;

o We plan to do site surveys at the 8 remaining temporarily closed towers to insure that they meet the criteria and will include up to 7 locations. These locations are:
Knoxville (Downtown), TN, Spartanburg, SC, Hot Springs, AR,
Pine Bluff, AR, Marysville, CA, Fresno (Chandler), CA,
West Memphis, AR, Hickory, NC

* Local government has leased the FAA facility on a short-term basis and is providing contract service at their own expense.

WITHIN-GRADE DELAY

SENATOR ANDREWS: Provide an estimate of the FY 1986 savings that would result from the Budget Resolution assumption for one additional year's wait before granting employees' within-grade step increases.

ANSWER: Approximately $11.5 million would be saved if within-grade step increases for General Schedule (GS) employees were frozen for a year.

OPERATIONS "MANAGEMENT SAVINGS"

SENATOR ANDREWS: Non-personnel "management savings" are shown in the justification as costing almost $3 million in the centers, towers, and flight service stations. Why? What causes the $10.9 million savings for planning, direction and evaluation?

ANSWER: Management savings - other than the proposed 5% pay reduction - total $2.4 million in centers, towers and flight service stations. These savings are anticipated for prospective A-76 contracts. If, after contracts are let, the savings occur in other areas, funding adjustments will be made.

The $10.9 million savings in planning, direction and evaluation is part of the Government-wide attempt to reduce administrative costs. The effort was applied to all non-technical FAA activities and represents attempts to consolidate and to reduce overhead functions, supplies and services.

FY 1986 COST-OF-DOING BUSINESS

SENATOR ANDREWS: Provide for the record a summary of each Operations activity showing the FY 1986 price level increases and the FY 1985 base (net of proposed Section 2901 rescissions) for non-personnel object classes. Identify the level of inflation assumed for each. Why are cost-of-doing business increases requested when OMB, we understand, required agencies to save 10 percent in FY 1986 for overhead and administrative costs?

ANSWER: The cost-of-doing business or price level increases requested in the budget fall into three general categories. First, there are increases related to full-year funding of activities initiated in FY 1985, but funded only a portion of the fiscal year. For example, in the air traffic activity there are 45 Level I VFR towers contracted out for part of FY 1985 for which we are seeking $2.7 million for full-year funding in

FY 1986. The second general category of increases supports the continuation of essential services at the FY 1985 level of activity. This includes such items as a $7.5 million price increase under the systems maintenance activity to continue leased telecommunications services support for existing facilities, equipment and services. And the third category covers those cases where inflation costs were considered for continuation of FY 1985 level of activity using a rate of 4.6 percent.

These cost-of-doing business increases are offset by a 10 percent reduction in overhead and administrative costs, as appropriate, in air traffic, systems maintenance, installation and material, airports, development direction, centralized training and direction and staff support services. A good portion, however, of the overhead and administrative costs for FAA are funded under the Headquarters Administration appropriation which does reflect sizable reductions for administrative type savings in FY 1986.

The FY 1986 price level increases and FY 1985 base by activity follow:

Operations Appropriation
Non-Personnel Object Classes
($ in thousands)

Activity	Base FY 1985	Price Level Increases FY 1986
Operation of traffic control system	$ 30,210	$ 7,483
Installation and material services	148,685	11,096
Maintenance of traffic control system	159,206	23,556
Administration of aviation standards program	75,690	1,669
Development Direction	1,120	54
Administration of airports program	4,327	158
Direction, staff and supporting services	22,761	313
Centralized training	72,064	3,008
Total, non-personnel object classes	$514,063	$47,337

CENTRAL FLOW CONTROL FACILITY

SENATOR ANDREWS: At last September's aviation delay hearing, the subcommittee heard testimony that en-route volume, not just projected terminal activity, would be coordinated in headquarters by the Central Flow Control

Facility. Are all centers so coordinated now? If so, why is it necessary to spend an additional $5 million in FY 1986 for additional contracts and studies?

ANSWER: All 20 en-route centers within the continental United States have received the necessary computer equipment to communicate with Central Flow Control and are in the process of being brought online. The requested funds are required for development of site specific software, revisions to existing software for improved communications, and continued program support of the Traffic Management System, as an example, enroute spacing, departure metering, and controlled departure times, thereby establishing a link between Central Flow Control, field facilities, and user groups. Some of the major results expected are: an automated runway configuration management program, a method for analyzing and predicting aviation activity as it relates to system capacities; and, greater interface capability by providing program flexibility and improved traffic flows throughout the system.

SENATOR ANDREWS: What improvements associated with decentralized control have been achieved so far?

ANSWER: Since the restructuring of the Air Traffic Service, which delegated responsibility for managing the nation's airspace to Central Flow Control, actions necessary for putting a line oriented organization in place have been completed. We are in the process of activating local Traffic Management Units at each of the domestic air route traffic control centers and selected airport traffic control terminals. When fully operational, we will be able to better manage the nations airspace through early detection of potential trouble spots, thereby reducing or eliminating excessive airborne delays and taking the necessary actions to match expected demand more closely to measured capacities providing greatly improved traffic flows. The result is a more efficient and comparatively trouble free system, benefiting all users within the aviation industry. Our goal is to network all segments of our field units, including flight service stations, thereby providing comprehensive and complete responsiveness to the needs of the user through a totally cohesive and unified element of the air traffic system.

INSTALLATION & MATERIEL SERVICES

SENATOR ANDREWS: Why are no management savings shown for the $21 million "Administrative Telecommunications" Activity?

ANSWER: Although we have examined Administrative Data Communications Network (ADCN) continuously for possible ways to reduce costs, the amounts required keep increasing. This is due to increased demands for ADCN hookup. As data processing technology continues to advance, the need for telecommunications increases to provide expanded automated data processing. Savings, therefore, are related to the ability to expand automatic data processing to new areas, not in reducing the ADCN.

OPERATIONS - SYSTEMS MAINTENANCE

SENATOR ANDREWS: The justification indicates (page 60) that systems maintenance workload measurements are being developed. Without indices such as a comparison between solid-state and vacuum-tube facilities, how have maintenance cost savings previously been derived? When will performance measurements be established and used for resource allocation?

ANSWER: Systems maintenance workload measurements have existed for many years and are continuously updated to cover all workload generating facilities. These workload measurements are revised whenever there are indications of changing workload such as between solid-state and vacuum-tube facilities. Requisite performance is assured by providing the resources necessary to accomplish the measured workload. Overall mission performance indicators on the other hand are being developed to measure the effectiveness of mission accomplishment.

SENATOR ANDREWS: Provide for the record the number of positions to be eliminated each year (FY 1986-1990) for field maintenance. Also show the 1,340 position increase for each year. Are the 267 positions reduced in FY 1986 associated with field maintenance? Is this figure net of position increases in FY 1986? Explain.

ANSWER: The following represents the number of positions being reduced and the workload increases for FY 1986-1990:

	Field Maintenance Position Reduction	Workload Increases
FY 1986	-252	212
FY 1987	-245	256
FY 1988	-231	288
FY 1989	-572	224
FY 1990	-164	360
TOTAL	-1,464	1,340

All but 15 of the 267 position reductions in FY 1986 are associated with the field maintenance program. These positions represent a net of workload increase of 212 positions associated with new facility commissionings offset by 464 productivity position savings.

REMOTE MAINTENANCE MONITORING

SENATOR ANDREWS: What is the status of the Remote Maintenance Monitoring? What savings are reflected in the FY 1986 budget? In what fiscal year will conversion to Remote Maintenance Monitoring be complete?

ANSWER: Phase I (completed) provided the basic Remote Maintenance Monitoring (RMM) network elements consisting of 25 En Route Maintenance Processor Subsystems (MPS) to be integrated with second generation VORTAC Remote Monitoring Subsystems (RMS), and a limited number of terminals.

Phase II (under way) permits the FAA to continue to realize operational benefits as more RMS's are deployed. During this phase, additional capabilities will provide performance reporting, automated logging, and other maintenance operation and management features of the Maintenance Management System (MMS). Also during this phase, RMS's will be deployed to retrofit existing facilities and as part of new NAS systems, e.g., terminal radar (ASR 9) and Microwave Landing System (MLS).

AVAILABLE

Phase III will provide the core RMM system as well as the RMS's for all remaining new and existing solid-state equipment. Also during this phase, maintenance control centers will be established which will gradually assume the role of monitoring the NAS facilities and coordinating maintenance activities.

The FY 1986 budget reflects a savings of over 2,300 field maintenance positions from the FY 1980 base level of 11,602 due to equipment replacement and remote maintenance monitoring which are practically inseparable.

Conversion to RMM will be completed during FY 1992.

LEASED COMMUNICATIONS

SENATOR ANDREWS: The leased telecommunications activity increases from $166 million in FY 1985 to over $170.5 million in FY 1986, and the justification indicates (page 60) that large increases will continue. Provide those 5-year telecommunications cost increases for the record. Why aren't costs stabilized due to technological efficiencies and telecommunications competition? The justification further projects $81 million in 5-year savings. What is the net trend for this activity?

ANSWER: Our most current projected 5-year telecommunications cost increases are provided below:

1986 - $ 4,451
1987 - 28,107
1988 - 25,888
1989 - 27,125
1990 - 14,750

The continued growth of the system and in the services provided, are responsible for the forecasted increases. As reflected in the National Airspace System (NAS) Plan, these costs are being imposed by increasingly complex and extensive requirements. Savings, from the broad application of technological efficiencies and telecommunications competition only partially offset the increased cost. An important factor is expected increased costs as the result of divestiture. These costs have not risen yet in large increments as we initially expected, but are beginning to appear as elements of gradual overall increase in the costs of telecommunications.

The net trend for this activity is a continuing achievement of efficiencies to limit increases caused by future requirements. There will be savings and cost avoidance in overall operating costs primarily due to facility consolidations, continued expansion of National Data Interchange Network (NADIN) function, further use of Radar Microwave Link (RML), and replacement of leased voice switching systems with agency-owned equipment projected through the year 2000.

ENGINEERING

SENATOR ANDREWS: It appears inconsistent to reduce the budget for change of station moves, yet to show increased travel associated with change of station moves and overtime (page 67). Please explain.

ANSWER: The rationale for reduction in PCS funds is to extract from the FY 1986 base that which was completed in FY 1985, and was nonrecurring in nature. Examples of nonrecurring PCS moves are sector office consolidations and other organizational or personnel selection/reassignment actions.

OPERATIONS-AVIATION STANDARDS AIRCRAFT CERTIFICATION

SENATOR ANDREWS: An additional $475,000 is requested (pg. 81) for travel related to increased certification activity, yet the workload indicators provided show about the same level of certificates in FY 1986 as 1985. Please explain. What is total current travel obligations for the Aviation Standards aircraft certification activity?

ANSWER: When the Aircraft Certification Directorates were established it was anticipated that travel requirements would increase as each Directorate assumes world-wide responsibility for their unique specialty. FY 1986 reflects the international impact on the certification program. Current travel obligations for FY 1985 estimated to be $2,018,800.

SENATOR ANDREWS: What contractual services are being eliminated (pg. 81) for $70,000 and what new contracts must be initiated in FY 1986 ($469,000)?

ANSWER: The reduction of $70,000 in transportation and contractual services represents the reduction of 2 permanent change-of-station moves and the non-recurring costs of a study of questions raised by in-flight structural failures of the V-tail Bonanza airplane.

New contractual studies involve:

- Parts manufacturing approval
- Shoulder harness installations
- Revision Type Certification Handbook
- Streamlining Part 121 of the FAR's
- Primary aircraft/ultralight criteria development

OPERATION AND MAINTENANCE

SENATOR ANDREWS: The justification (pg. 82) reflects FY 1986 increases of one percent for investigations, inspections and certification levels. Why aren't these workload levels more in line with projections in your opening statement such as 3.4 percent more IFR aircraft and 5.7 percent more aircraft operations handled by FAA?

ANSWER: The projections such as 3.4 percent more IFR aircraft and 5.7 percent more aircraft operations handled by FAA are economic indicators which directly affect the NAS system. The increases of one percent for investigations, inspectors and certification levels represent productivity efforts required to ensure compliance with regulations and standards and to detect noncompliance with safe operating practices. The increase in workload and performance indicators does not necessarily parallel environmental growth.

SENATOR ANDREWS: Operation and Maintenance decreases overall in FY 1986, yet a $569,000 increase is included for overhead, including printing, utilities and supplies. How much of this increase is for travel beyond what is necessary for certification and inspection activities (since an additional $408,000 is sought for that)? What is budgeted for this fiscal year for inspector travel? Will any of the Section 2901 rescission reductions affect travel for inspection activities?

ANSWER: The increase of $569,000 includes inflationary costs only, not additional travel requirements. Approximately $3,300,000 is budgeted in FY 1985 for inspector travel. Section 2901 rescission reductions were applied to non-job performance travel only and did not impact inspection activities.

SENATOR ANDREWS: The justification states (pg. 77) that outyear inspection resource requirements could increase significantly pending the outcome of FAA's and GAO's studies. When will these studies be complete? What is indicated by the FAA study so far? What FY 1986 allowance will be made if more inspectors are needed? In other words, where will offsetting reductions be taken?

ANSWER: The FAA and GAO studies are scheduled for completion by September 30, 1985. Indications of the FAA study to date appear to affirm that there is a need for additional aviation safety inspectors. Interim data should be available by mid-June to confirm these findings. The study is also designed to determine whether or not the present inspection work force is being used effectively and as efficiently as possible as well as the future needs of the program. Should the study prove that substantially more inspectors are needed, appropriate recommendations will be made to the Congress.

AVIATION STANDARDS--RECORDS SERVICING

SENATOR ANDREWS: The justification describes the need in FY 1986 for 19 additional positions to alleviate a "serious workload backlog" in the Airmen and Aircraft Registry effort. What is the level of the backlog? What resources are currently available, and what steps are being taken now to reduce it? To what extent is safety affected by this backlog?

ANSWER: Based on established productivity standards, input volumes for aircraft registration and airmen certification will require 132 positions (125.4 FTE's) for timely processing--10 to 15 days for aircraft and 15 to 20 days for airmen. Any lessor position level will result in unaccountable backlogs and delays.

As of 4/5/85, the picture was as follows: Aircraft conveyances, 10,873 documents, 13 workdays; cashier control, 1.5 workdays; special number requests, 8 workdays; airmen applications, 12,423, 19 workdays; written test, 2 workdays; and crewmember cards, 1,199 documents. We have been able to maintain the backlog at that level only by the use of contractor support, an excessive amount of overtime, and the temporary use of personnel from other critical programs to support the 108 positions presently assigned. This is recognized to be an unacceptably inefficient and costly method of work accomplishment.

Backlog levels experienced in past years serve to impede the enforcement of safety regulations; however, the economic impact on the public is extensive and excessive.

FLIGHT PROGRAM

SENATOR ANDREWS: Total flight hours, and every use category except flight inspection, show large decreases from the indicators in last year's justification. Please explain what was saved in fuel and maintenance in FY 1985 as a result of fewer flight hours? Why will training hours drop from 8,550 hours in FY 1984 to 5,414 in FY 1986?

ANSWER: FY 1985 savings in fuel amounted to $2,085,000 and 1,629,375 gallons. Maintenance savings amount to an additional $657,200. Training flight hour reduction is attributed to the operation of the new B-727 simulator and increased use of out-of-agency training.

SENATOR ANDREWS: With more facilities requiring flight inspection in FY 1986, why are total flight hours down?

ANSWER: Conversion to solid state instrument landing system/very high frequency omnidirectional range equipment increased facility reliability which resulted in fewer flight inspection flight-hours.

SENATOR ANDREWS: Aircraft fuel need for the new FAA fleet results in a $1,200,000 savings in FY 1986. How does this compare to previous estimates of savings? What are the outyear savings expected to be?

ANSWER: Previous aircraft fuel estimates of savings in FY 1986 resulting from the new fleet were $4,600,000. Outyear savings are as follows:

FY-87	$5,162,700
FY-88	5,369,200
FY-89	5,567,900
FY-90	5,773,900

The anticipated savings of $4,600,000 was not achieved due to the delay in obtaining approval to proceed with the Fleet Conversion program.

SENATOR ANDREWS: To what extent does this fuel savings result from base price decline of aviation fuel? What travel allowance is assumed for the FY 1985 flight program? Why does it cost an additional $73,000 in travel to add new aircraft to the fleet in FY 1986?

ANSWER: Base price decline of aviation fuel is not in the $1,200,000 FY 1986 savings. A temporary decline in price occurred, but the price has now increased to offset any savings.

Travel allowance for the FY 1985 total aircraft program is currently $1,652,000. The additional $73,000 in travel for FY 1986 represents a 4.7 percent inflation factor.

SENATOR ANDREWS: What is currently spent by both for FAA maintenance and in outside contracts to maintain the FAA aircraft fleet? With the addition of new aircraft, why is an additional $160,000 requested for contractual service in FY 1986?

ANSWER: Total cost of FAA aircraft maintenance is $16,370,000. This includes contract cost of $6,400,000. The increase of $160,000 in FY 1986 for contractual services is to fund for aircraft maintenance primarily in overseas areas. The increase is necessary due to approval delays in the Fleet Conversion Program.

CIVIL AVIATION SECURITY

SENATOR ANDREWS: What remains from the $15 million appropriated in past fiscal years to reimburse carriers for the cost of security improvements? Why haven't these funds been distributed to carriers seeking reimbursement? What is the total FAA liability to the carriers? What is the liability if interest charges were added to carriers' claims? When will FAA make final distribution of the funds?

ANSWER: Of the $14,945,000 appropriated $11,850,441 has been obligated. This includes a total of $5,400,000 in advance payments to Pan Am and TWA. This leaves a balance of $3,094,559 to be disbursed. We are in the process of reviewing the Department of Transportation's Office of the Inspector General's audits of the claims to determine the exact amount of total compensation to be authorized for each air carrier. Considering all aspects, the total FAA liability to the claimants is an amount up to the total appropriated for the program. We do not have a basis for computing interest charges since we have not technically determined the specific amounts due to the claimants. When that is done, the available funds will be disbursed immediately. Unless unforeseen restrictions or difficulties are encountered, it is expected that final payment will be made during FY 1985.

SENATOR ANDREWS: Without the requested increase of $158,500 for guard service, will the FAA building (FOB-10A) be guarded 24 hours? Why are guard services not covered by GSA? Does FAA maintain guards at its Oklahoma and Atlantic City facilities? At what cost? Does GSA provide guards at the NASSIF building?

ANSWER: Without increased funding, the FAA will not be able to maintain adequate 24-hour guard service for FOB-10A. The Department of Transportation (DOT) contracts for guard service at the FOB-10A and the NASSIF building. The FAA reimburses DOT for the cost of the guard service at FOB-10A and has no control over the actual cost. DOT contracts for guard service and did not contract with GSA.

The FAA maintains guard service at the Mike Monroney Aeronautical Center in Oklahoma City and at the Technical Center in Atlantic City. The total FY 1986 cost of these two contracts is $1,535,200.

OPERATIONS - DIRECTION, STAFF AND SUPPORTING SERVICES

SENATOR ANDREWS: Provide for the record the FY 1984-1986 both regional and center costs for: Direction and Management, Public Affairs, International Aviation, Legal, Aviation Policy and Plans, Accounting, Budget, Civil Rights, Personnel Management, Labor Relations, Communications Control, Data Systems, and Management Systems.

ANSWER: Listed below is the requested information for regions and centers. The Direction, Staff and Supporting Services (DS&SS) activity also includes certain items which can best be managed within this activity, such as federal employees compensation payments and unemployment compensation which cover requirements for all agency appropriations. The cost of these items are listed below as "Other DS&SS Operations."

	FY 1984	FY 1985	FY 1986
Direction and Management	7,517,416	5,969,000	5,589,400
Public Affairs	1,288,140	834,900	785,300
International Aviation	749,742	673,300	631,000
Legal	4,210,214	4,230,300	3,966,100
Aviation Policy and Plans	1,581,340	1,172,600	1,099,800
Accounting	11,081,799	12,439,500	11,695,500
Budget	3,238,292	3,419,500	3,209,600
Civil Rights	1,995,159	2,037,600	1,911,000
Personnel Management	11.385,325	11,730,600	11,377,400
Labor Relations	2,342,217	2,466,600	2,314,000
Communications Control	1,212,157	1,680,200	1,578,300
Data Systems	17,974,342	17,912,800	19,280,000
Management Systems	5,376,307	4,943,000	4,943,000
Subtotal Regions and Centers	69,952,450	69,509,900	68,380,400
Other DS&SS Operations	81,787,550	72,203,100	70,464,600
TOTAL DS&SS	151,740,000	141,713,000	138,845,000

SENATOR ANDREWS: The budget justification recommends a program increase of $221,000 for employee reimbursement for change of station. Would you please provide the other costs and savings associated with relocating the New England regional office? Does moving the office reduce rental charges?

ANSWER: The decision to relocate the New England Regional Office from Burlington, Massachusetts to Boston, Massachusetts has been deferred. At this time there is no longer any requirement for relocation funds during FY 1986. All amounts associated with the relocation were deleted from the FY 1986 estimates prior to submission except this $221,000.

In FY 1984, GSA introduced the plan to move the New England Regional Headquarters to consolidate several area government offices into a new federal office building. The impact on personnel and operations were assessed and GSA was advised that disruption would be significant. GSA subsequently abandoned the plan to move the New England Regional office. The GSA Commercial Based Rent (CBR) at the new federal office building would have been more than at the present location.

SENATOR ANDREWS: Provide a breakdown of the $549,000 savings for ADP purchase. What was the purchase price for equipment?

ANSWER: Automatic data processing equipment rental has been reduced from two factors: (1) exercise of purchase options, and (2) more equipment is being purchased rather than leased. About $370,000 of purchase options are being exercised for computer components at the Aeronautical Center in FY 1985 that produced about $200,000 reduction of rentals in FY 1986 and every subsequent year. The purchase rather than leasing of small computer devices, such as terminals, has further reduced requirements for rental by about $349,000.

SENATOR ANDREWS: How was the $2.763 million cut in "Administrative Services" derived? Despite claiming $2,763,000 in savings for reducing costs of administrative service, FAA recommends an increase of $90,000 for travel. Of this "$41,000 will provide for greater involvement by the regions in taking lead roles in the development and implementation of national data systems". What new national data system is planned?

ANSWER: The $2,763,000 reduction was derived by applying a 10% factor to those program items which are not directly related to Operation of the National Airspace System. In addition to our efforts to reduce administrative services, we are making our data systems procedures more efficient and productive. This involves greater participation and travel of field personnel in developing national systems resulting in greater acceptance and use. The new national data system referred to are the Information Resource Management Plan (IRMP) projects. In FY 1986, a number of aviation safety related systems are planned which will provide timely information to regional personnel.

SENATOR ANDREWS: Why must the regions lead it?

ANSWER: Prior to the standardization of computer facilities in FAA, each major facility developed, operated, and maintained their own unique payroll, accounting, and other administrative data systems. The twelve locations, having the largest number of similar data systems, are in the process of standardizing these systems to attain the benefits of time and cost reductions in the maintenance of such systems. As these systems are used by regional personnel, it is appropriate that they take the lead role in their development and implementation.

SENATOR ANDREWS: Why is increased travel required for developing a data system?

ANSWER: A project team is usually comprised of a representative from each of the 12 decentralized ADP facilities. It is necessary for them to gather in a centrally convenient place for them to carry out their common work. It has been found that the ultimate users of a data system (i.e., the regional personnel) do a more effective job in developing many systems than when they are developed by headquarters personnel who may not be as familiar with the operational details. Accordingly, travel requirements have increased as a result of this practice.

SENATOR ANDREWS: Another $49,000 increase in travel is requested for "new program requirements and human resource related problems". Would you describe the requirements, the problems, and how increased travel will be of use?

ANSWER: Requirements driving the request for an additional $49,000 in FY 1986 funds are items such as: Development and conduct of special programs to improve the selection and development of first-line supervisors and increased training in performance appraisal and followup programs resulting from the FAA Employee Attitude survey. The problems being dealt with are part of the agency's Human Resource Management program, which is intended - among other things - to improve the quality of communication and concern for people, as well as providing a sense of participation on the part of our employees in the manner in which FAA is managed. We believe this will ultimately result in a more effective organization. The increased travel funds will provide increased manager and employee training as well as additional problem-solving and design workshops with optional participation by employees at all levels.

SENATOR ANDREWS: How much travel was budgeted in FY 1985 for Direction, Staff and Supporting Services?

ANSWER: $1,857,000 was included in the FY 1985 Budget submitted to Congress.

SENATOR ANDREWS: How much of your administrative savings included reduced travel?

ANSWER: Prior to FY 1986, Direction, Staff and Supporting Services (DS&SS) travel was reduced to a minimum level necessary to conduct essential requirements. Therefore, DS&SS travel was not reduced as part of the administrative savings.

SENATOR ANDREWS: How much is spent annually for the Aviation Education Program?

ANSWER: The FAA Aviation Education Program was revitalized in December 1983, and the obligations have been: FY1983 - $316,072; FY1984 - $431,400. This includes Personnel Compensation and Benefits (PC&B) of personnel assigned to the program, travel, supplies, printing and contractual services.

SENATOR ANDREWS: How much of this cost is for: consultants or contractors; printing and publications; and travel?

ANSWER: For FY 1983 (Dec. 83 through Sept. 84) and FY 1984 together: Consultants - none; Contractors - $257,936; Printing and publications - $116,305; Travel - $31,951. These totals are for headquarters program operation and administration only.

SENATOR ANDREWS: What is being spent in FY 1985?

ANSWER: During FY 1985 we have a funded program of $604,617 for PC&B, travel, office automation, material development, and printing. In FY86, we have projected expenditures to be $733,000. In addition to the above dollars, total regional expenditures, which are figured separately, are: FY85, $150,000; FY86, $272,800.

SENATOR ANDREWS: What specific benefit is derived from this program?

ANSWER: The Aviation Education Program is FAA's response to the Congressional directive (PL 94-353, Section 21) contained in the 1976 ADAP Bill requiring the Secretary of Transportation to establish a "Civil Aviation Information Distribution Program" in each FAA region. It is designed to infuse aviation content into existing curricula of elementary and secondary schools, thus serving as a "feeder system" for the FAA's Airway Science Curriculum Program.

Working together, the Aviation Education and Airway Science Programs are ensuring the development of a future workforce of qualified, trained aviation professionals advancing the Congress' legislative mandate of modernizing our airways, improving our airports, and simultaneously helping the education community meet its challenges of upgrading the technology literacy of America's youth. These objectives coincide with FAA's Aviation Education policy, Secretary Dole's "Adopt-a-School" program, the President's Proclamations on "Partnerships-in-Education" and "Voluntarism," and Administrator Donald D. Engen's priority of "Safety in the Skies."

In order to involve all segments of aviation, the FAA encouraged the formation of and is cooperating with a private initiative, the Aviation and Space Education Forum, a Partnership-in-Education among the business, education, and government individuals and organizations involved in aviation and space activities. We also have working relationships with the Young Astronaut Council, the National Association of State Aviation Officials, the Air Force Association, the National Congress on Aviation and Space Education, the World Congress on Aerospace Education, the Civil Air Patrol, and many other groups. In addition, we have conducted two successful annual nationwide Aviation Education Essay Contests and plan to continue them.

Each region is structuring an implementation strategy to establish an Aviation Education Program--with emphasis on sharing knowledge of FAA's mission with local schools and communities and preparing students for the Airway Science Curriculum Program to serve FAA and the Aviation/Aerospace industry's future requirements.

SENATOR ANDREWS: If a $141,000 savings from moving data systems in-house is compared to the additional $385,000 for upgrading user systems throughout the agency, doubt is cast on the cost/benefit of each decision. Please explain and identify specific savings.

ANSWER: The $141,000 reduction in commercial timesharing costs is an annually recurring savings resulting from using available time and capacity in present regional computers and microcomputers. The automated data processing equipment formerly used (circa 1950's) did not have the technology needed to support all agency requirements, thus, many applications were processed on commercial timesharing computers that did offer state-of-the-art technology. The present equipment has, as a standard feature, the necessary technical features, thus, precluding the need to use the present level of high-cost timesharing services. This savings is the result of making optimum use of existing resources. The $385,000 increased costs are for maintenance of ADP equipment in all FAA regional offices and the Aeronautical Center. This increase occurs because of the incremental and expanding use of computer terminals (and supporting ADP equipment) throughout the agency.

SENATOR ANDREWS: A program increase of $1,108,000 is required for contracting out various ADP services, such as data entry, for Uniform Accounting and Payroll Systems. What staff reductions and savings are expected from this charge?

ANSWER: The Operations Appropriation, Direction, Staff and Supporting Services, is being reduced by 129 positions as a result of A-76 studies. Approximately one half of this position reduction is expected from operations planned for contractual performance using the additional funds requested.

SENATOR ANDREWS: Why is an additional $2,061,000 in ADP equipment required when the "management savings" of only $549,000 apparently results from purchasing this equipment? Another $141,000 in timesharing costs savings is listed. Please explain specific costs and savings resulting from the activities discussed.

ANSWER: The request for an additional $2,061,000 includes $208,000 for purchase of new automated data processing (ADP) equipment and $1,853,000 for the exercise of purchase options on existing leased equipment.

For many years, FAA as in other Government agencies, would lease their large ADP equipment with purchase options; then exercise these purchase options in subsequent years whenever additional funds became available. As ADP acquisitions have evolved from large-scale computers to many small and micro computers, the marketplace in a growing number of cases no longer offers ADP leasing. Consequently, there is an increasing need for initial purchasing of ADP equipment. Two hundred eight thousand dollars of the requested increase reflects the initial purchase of ADP equipment that is not commonly available through leasing.

The FAA already has a considerable inventory of leased equipment. Much of this leased equipment will reach a point of optimum cost advantage for purchase during FY 1986, and payback of the requested $1,853,000 will occur in less than 2 years from elimination of future lease payments.

The referenced savings of $549,000 and $141,000 are not directly related to the requested $2,061,000 for ADP equipment purchases; $549,000 savings in rental is the result of purchases made prior to FY 1986, and $141,000 savings in timesharing was made possible by equipment acquisitions over the last several years.

SENATOR ANDREWS: What will this new equipment do that is not now being done?

ANSWER: The new equipment extends the present automated data processing posture of the agency to additional users. The new equipment is primarily for additional computer terminals and associated supporting computer elements. This new equipment will provide access to computer capabilities for agency personnel who currently do not have such access. The present equipment consists of the Management Information Computer Systems located at the regional offices and headquarters and the computers at the Aeronautical Center.

SENATOR ANDREWS: Please explain the costs and benefits of exercising the purchase option for Digital Access Storage Devices (DASD).

ANSWER: At the time of initial lease, the life cycle cost offered a slight advantage to purchase. The decision to lease was based on the advantages of (1) being able to accumulate purchase credits through leasing, and (2) leaving the option open for future years on continued leasing, on exercising the purchase, or on acquiring other equipment in lieu of the DASD equipment. The DASD equipment now in place will fulfill needs for the foreseeable future. By FY 1986, purchase credits will have reached their maximum accumulation. This will be an optimum time for purchase, since purchase cost at that time will be less than the cost of 2 years of continued leasing.

SENATOR ANDREWS: A program increase of $53,000 is requested for "normal operating supplies for increase demand for word processing and data processing support." Why has the demand for this material increased - is more word processing expected in FY 1986?

ANSWER: Whether letters are typed on typewritters, word processors, or computer terminals, the machines need to have ribbons and paper. Generally, such supplies were obtained from GSA supply stores and charged to an overall account for the particular agency. The GSA stores currently do not stock supplies for every make/model of machine, thus, these supplies must be obtained from office supply firms. As the charges and procurement process are commercial, they have simply drawn visibility in the accounting and budgeting process.

SENATOR ANDREWS: Word processors are supposed to save money, not increase spending. What is budgeted for FY 1985 for such support?

ANSWER: The requested increase provides expendable ribbons, paper, and associated supplies used by word processors and data processors. While the cost of these supplies is increasing, there are gains in productivity that allow FAA to absorb increases in workload and, in many instances, perform the work with fewer personnel. The FY 1985 budget for supplies is $220,000.

SENATOR ANDREWS: "A centralized supply supporting procedures geared to the needs of ADP will be cost beneficial." If this is true, why must funding be increased?

ANSWER: The problems with acquiring many automated data processing supplies are timeliness and cost. Many times the GSA source of supply either does not stock an item or will not be able to deliver necessary supplies before the present supplies are exhausted. When supplies have to be acquired on a piecemeal basis from commercial sources, the cost is considerably higher. While the use of word processing and data processing equipment yields an overall improvement in productivity and quality of work performed, this equipment generally uses larger quantities of supplies, and the unit cost of supply items are often more costly. The referenced central supply procedure will simply provide for more efficient quantity buying of those items not stocked in the GSA stores; otherwise, even a larger increase in supplies cost would be necessary.

FLIGHT SERVICE STATION WORKLOAD

SENATOR ANDREWS: Last year's justification projected a 6.7 percent increase for 1984 over 1983, compared to the currently forecasted decrease of 3.7 percent. In addition, the 85-over-84 increase has been adjusted upward from 5.8 percent to 8.7 percent. Please explain the shifts.

ANSWER: During FY 1983 and FY 1984 the air traffic control system fully recovered from the strike and the economy showed significant growth. General aviation activity at Federal Aviation Administration (FAA) towered airports followed the recovery of the system and the economy and grew in FY 1983 and FY 1984 at annual rates of 2.9 percent and 4.7 percent, respectively. It was expected that activity at flight service stations would also recover. At the time the FY 1985 workload forecast was developed, the actual FY 1984 number was not available. The FY 85 forecast, which was based upon the estimated FY 1984 total, showed a 4.7 percent increase (down from the 5.8 percent forecast last year). However, when the actual FY 1984 total was lower than estimated, the resultant increase for 1985 was 8.7 percent. It should also be noted that the most recent forecast of the long-term annual growth rate of flight service station activity has been lowered from 5 percent to 2.8 percent.

OPERATIONS --- MEDICAL PROGRAM

NTSB REDUCTIONS

SENATOR ANDREWS: The National Transportation Safety Board (NTSB) proposed to eliminate six positions in FY 1986, four from the Administrative Law Judge area. The Subcommittee has heard from several outside parties that this decision will affect safety, and delay processing of FAA enforcement actions. Does FAA feel that NTSB will experience a significantly increased backlog of airman and operator certification appeals?

ANSWER: FAA's view is that NTSB's law judges are currently hard-pressed to handle their current caseload, which is likely to increase in the future. Any significant reduction in the staffing of the administrative law judge's office is therefore likely to cause a significant increase in an already high case backlog. Where FAA is seeking to suspend or revoke the pilot certificate of an airman charged with violating an air safety regulation, further delay in processing the appeal would allow the individual to continue flying for that additional period of time. This would delay the safety-enhancing aspects of the sanction in those cases in which the Board ultimately agrees that the sanction is warranted in order to promote safety.

SENATOR ANDREWS: Has FAA formally or informally commented on this budget decision?

ANSWER: The Administrator expressed FAA's views on this issue in a letter to the Chairman of the NTSB dated February 20, 1985.

SENATOR ANDREWS: Outline the direction and goals of the Substance Abuse Program. Why is there a decrease of $966,000 in FY 1986 as well as a $392,000 increase? What is being spent in FY 1985 and 1986 for the total program; how much in-house and how much contracted out?

ANSWER: FAA's Substance Abuse Program is being established to detect possible substance abuse in employees providing direct safety-related services. The goals of the program are: 1) detect use of substances that may impair performance of employees in safety-related service; 2) assure that substance abusers are given the opportunity for rehabilitation through the agency's Employee Assistance Program; 3) assure that employees who are not rehabilitated are not permitted to return to providing safety-related services.

The reduction of $966,000 reflects a decline in contract support requirements in three areas of the medical subactivity; the Substance Abuse Program, the maintenance and calibration of equipment, and medical consultants. The reduction in contract support for the Substance Abuse Program during 1986 is possible because the one-time program design and initial startings costs for this program were funded in FY 1985. The FY 1986 funds requested are only for contract support to continue the program. The maintenance and calibration of equipment cost reduction is attributable to the purchase of new equipment which will enable less costly maintenance and calibration. A reduced level of consultant usage will result in lower funding requirements.

The increase of $392,000 is for salaries and benefits for 12 full-time permanent positions that are needed to absorb the increased FAA workload as the testing part of the program builds up in FY 1986. Also included in this amount is an increase of funds to contract the services of medical specialists to support Aviation Medical Examiner seminars.

In FY 1985, resources for the Substance Abuse Program include $1,600,000 for a contract for the development of a comprehensive methodology for collecting, transporting, and analyzing specimens from FAA employees in aviation safety duties who are required to have annual examinations as a condition of their employment and $200,000 to cover charges by Aviation Medical Examiner's for their special handling of the specimens.

In FY 1986, total contract resources required to continue the program are estimated at $1,000,000 and approximately $287,800 will be spent on additional FAA staff.

SENATOR ANDREWS: Why is an additional $113,000 needed for equipment and travel. What is available currently for both?

ANSWER: This funding will permit the Medical Program to purchase new pieces of equipment to replace those that are outdated or in need of constant repair, such as, audiometers, EKG's noncontact tonometers, blood pressure reading machines, vision testers and a vertigon.

Additional travel funding will be used to conduct evaluations of regional and center Medical Office Occupational Safety and Health Programs.

OPERATIONS AVIATION STANDARDS

SENATOR ANDREWS: When was this activity established, and where were corresponding staff reductions taken?

ANSWER: The Office of Aviation Safety was reorganized effective May 14, 1984, out of Aviation Standards (AVS) to report directly to the Administrator. The staffing for the organization was acquired from 27 headquarters regulatory positions in AVS and 11 positions from the regions and Associate Administrators in Airports, Air Traffic, and Development and Logistics.

SENATOR ANDREWS: How many more trips will be taken with the additional $91,000 in travel? Will these all be associated with aviation inspection, or with administrative travel? What will be the FY 1985 travel obligations for this office?

ANSWER: We anticipate approximately 170 more trips in FY 1986. The increase relates to the increased scope of this activity to perform on-site reviews of FAA operations to ensure that all phases of the aviation system meet safety requirements. We plan very little increase in administrative travel. The FY 1985 travel obligations for this office will be approximately $156,000.

SENATOR ANDREWS: The increased $2.6 million FY 1986 funding for contractual services represents almost a doubling of the FY 1985 level. Why can't these studies be performed in-house? What direct benefit will result from the increase?

ANSWER: The Office of Aviation Safety is a small office with insufficient resources to conduct studies of the magnitude sometimes required. Also, in situations such as the Flight Service Station Privatization Study, it is more appropriate to utilize commercial sources to remove appearances of bias. The increase relates directly to the completed staffing of the new organization and the enlarged responsibility of this activity to monitor and evaluate FAA operations relating to airports, air traffic control, airway facilities, and aviation standards. These studies should improve the response time on critical issues, identify priority safety programs, and enhance aviation safety.

ADMINISTRATION OF AIRPORTS

SENATOR ANDREWS: An additional $250,000 is requested for new or expanded airport program contracts. How much is available this fiscal year? To what extent could automated management information systems be done in-house at the Transportation Computer Center? What savings would result?

ANSWER: Contract funding available for Fiscal Year 1985 is approximately $2 million and is subject to agency adjustments. The Airports Program Management Information System currently operates on the Department of Transportation (DOT) computers at the Transportation System Center (TSC) in Cambridge, Massachusetts. The TSC and Transportation Computer Center are both DOT in-house facilities. While both facilities are capable of handling our Management Information System, we do not believe there would be any measurable cost savings between the two federally operated activities. Also, TSC has acquired considerable knowledge of our program requirements and have provided us a satisfactory level of service.

OPERATIONS - CENTRALIZED TRAINING

SENATOR ANDREWS: Air Traffic training decreases from 5,490 in FY 1985 to 4,789. What are the outyear projections? Presuming they decline, does this mean that sufficient personnel are "in the pipeline" for air traffic requirements projected in FAA's traffic forecasts?

ANSWER: The figures cited refer to all types of training. The controller developmental pipeline is governed by enrollments in the initial qualification courses. Initial qualification enrollments drop from 2,772 in FY 1985 to 1,872 in FY 1986. The outyear projections are for 1,906 in FY 1987, 1,998 in FY 1988, and 2,376 in FY 1989. Beginning in FY 1986, enrollments are essentially those needed to replace losses, since there are now sufficient personnel in the pipeline to meet traffic requirements. Our current goal is to have about 1100 developmentals in the pipeline. Because of the high attrition experienced in the controller training program, enrollments have to be nearly double the number required in the developmental pipeline.

SENATOR ANDREWS: Decreased air traffic training (travel and instruction) accounts for FY 1986 savings of $6.6 million. Is this predicated on a stable 14,400 controller employment level?

ANSWER: The FY 1986 savings was predicated on a 14,400 controller employment level.

SENATOR ANDREWS: The Administrator has indicated that he will continue to review controller resource requirements. What additional resources may be necessary in FY 1986 if future year needs exceed the 14,400 level?

ANSWER: If future needs exceed the 14,400 level, the additional resources required in FY 1986 will be supplemental funding for: instructional services contracting, increased student travel and per diem, increased PC&B costs of additional new hires, academy second shift operation (if necessary), and facility OJT instruction.

SENATOR ANDREWS: What is the washout rate of trainees currently?

ANSWER: Based upon the current FY 1985 En Route inputs (630 students), the loss rate at the FAA Academy for the En Route option is 45.1 percent. The current FY 1985 Terminal input (125 students) is not large enough to be used as a valid indication; however, for FY 1984 the loss rate for the Terminal option was 36.8 percent.

SENATOR ANDREWS: Is this an improvement?

ANSWER: There is a reduction of 2.4 percent reflected in the En Route FY 1985 loss rate compared to FY 1984. The loss rate for Terminal between FY 1983 and FY 1984 was constant.

SENATOR ANDREWS: A 33 percent increase in training for airway facilities is requested in FY 1986. What funding level is associated with this increase?

ANSWER: The funding level associated with an increase of approximately 2,300 airway facilities training quotas is $2.7 million.

SENATOR ANDREWS: The justification indicates that this increase is necessitated by NAS Plan equipment installations. Given NAS Plan slippage, is this increase realistic?

ANSWER: This increase is realistic as the need for training associated with a new system usually matures from 6 months to 2 years after the system acquisition contract is awarded. Thus, current slippage in NAS Plan contract awards does not reduce training requirements for systems already under contract.

SENATOR ANDREWS: Couldn't the increase be phased in over the next several years?

ANSWER: The current requirements are indicative of an effort to integrate training with planned NAS equipment commissionings and these requirements are already "phased in" to equipment delivery schedules which may extend over several years.

SENATOR ANDREWS: Only a 3 percent increase is sought in FY 1986 for aviation standards training. Given the need to improve inspection quality, shouldn't this level be higher?

ANSWER: The FY 1985 budget was increased by approximately $1.5 million for aviation standards training. That increase plus the 3 percent increase in FY 1986 resources will be sufficient to finance the identified aviation standards training program.

SENATOR ANDREWS: What percent of this training is associated with inspections?

ANSWER: Using FY 1985 as a reference, 80 percent of the aviation standards training requirement is associated with inspections.

SENATOR ANDREWS: Over $3 million in increased travel, transportation and other services is requested in FY 1986. What is the current level of obligations?

ANSWER: The $3 million dollar increase represents a 4.6 percent inflation factor applied against a $65,391 thousand base program.

SENATOR ANDREWS: What percentage of the current level and the requested increase is for: 1) controller training and 2) aviation inspector training?

ANSWER: Of the current and budgeted program levels, approximately 37 percent is for controller training and 18 percent for aviation inspector training.

SENATOR ANDREWS: How much is spent for management and general training?

ANSWER: Approximately $6 million is spent annually for management and general training.

SENATOR ANDREWS: What has been the historic relationship between management/general training and air traffic training. Provide a summary since before and after the PATCO strike.

ANSWER: In the pre-strike years (1979, 1980, and 1981 prior to August) management and general training enrollments were almost twice as high as air traffic initial qualifications training, but seemed to follow the same downward trend. During the critical strike recovery years (1982, 1983, and 1984), air traffic training enrollments were almost triple management and general training enrollments. During this period, initial qualification training increased dramatically, while air traffic supervisors, prime candidates for management training, were either controlling traffic or could not be released for management training. With an easing of the strike recovery effort and the current emphasis on human relations efforts, management and general training enrollments are expected to increase dramatically.

	AIR TRAFFIC		
FISCAL YEAR	TOTAL	INITIAL QUALIFICATION	MANAGEMENT/ GENERAL 1/
1979	2,455	2,302	5,395
1980	1,769	1,575	4,922
1981	1,477	1,415	2,585
1982	6,194	5,940	1,757
1983	4,705	3,326	1,638
1984	3,897	2,536	1,442
1985 2/	5,490	3,132	5,395
1986 3/	4,789	1,872 4/	5,014

1/ Includes students from all FAA career specialties
2/ FY 1985 Program Level
3/ FY 1986 Program Estimate
4/ Indications are that this requirement may increase due to revised staffing standards

INFORMATION RESOURCES MANAGEMENT PLAN

SENATOR ANDREWS: An almost $4 million increase is requested in FY 1986 for the Information Resources Management Plan (IRMP). What is the base spending for IRMP in FY 1985?

ANSWER: The referenced $4 million increase is that portion of the total IRMP funding appropriate for inclusion in the Headquarters Administration appropriation. The FY 1985 Headquarters Administration budget request included more than $20 million for related activities and expenses. FAA is in the process of installing cost tracking procedures that will permit the more precise identification of all such expenditures in future years. We do not have that capability for FY 1985 IRMP expenditures.

SENATOR ANDREWS: With over 90 positions in both Management and Data Systems, why is it necessary to contract out for IRMP integration, costing $1.1 million? How much of the FY 1985 requested $2 million has been obligated to date? Why is it necessary to let both an integration and implementation contract?

ANSWER: Limited in-house personnel resources and lack of in-house technical expertise to support the IRM program require us to contract for the IRMP integration effort. It should be noted that this effort has no base program to build on, and any sudden shift of positions required to accomplish this effort would impact the activities already in the base.

The $2 million for IRMP implementation requested in FY 1985 dealt with specific projects, not the total IRMP. Of this amount, $1.8 million has been obligated to date.

There is no single implementation contract for the IRMP, nor was it, or is it now, the intent to have a single implementation contract. Implementation efforts are the responsibility of the project sponsors via in-house or contractual mechanisms. The integration contract, though, is meant to be a single contract to cover all IRMP projects and ongoing systems integration and is a vital piece to achieve IRMP program goals.

SENATOR ANDREWS: What is the current cost estimate for IRMP, and savings? How soon will savings be shown in the budget?

ANSWER: For development projects (new starts and enhancements) listed in the IRMP, the total cost of development is $217.3 million including prior years. (The FY 1986 development estimate is $49.2 million.) The annual benefit once all identified projects are implemented is $137.6 million (of this amount $58.9 million is annual savings; $78.7 million is annual cost avoidance). A breakeven point for the current IRMP projects, in toto, occurs in FY 1988.

The IRM projects completed to date have generally been on a smaller scale with small impact on the budget. As the larger projects are implemented, and are "shaken down", we expect direct budgetary impacts approximating the lead of benefits shown above about the FY 1990 timeframe. In addition, to benefits of dollar savings, the IRMP will yield substantial intangible benefits to FAA with better information to manage virtually every operation of FAA and its basic mission of improving safety.

SENATOR ANDREWS: Last year, FAA indicated that the annual operating cost could be reported with a tracking system expected to be operational in FY 1985. Please provide this annual cost information.

ANSWER: FAA is in the process of installing the cost tracking mechanisms needed to track IRMP costs. FY 1985 costs will only be partially identified in our formal cost tracking system. We will, therefore, have to combine this information with estimates in order to provide a complete answer. We will do this by November 30, 1985, and provide a response to the Committee.

HEADQUARTERS ADMINISTRATION

SENATOR ANDREWS: The appropriations language for FY 1986 continues the authorization to transfer funds to Headquarters Administration from Operations. Provide a history of the use of this authority since enacted. How much will be transferred in FY 1985? What need is foreseen for FY 1986?

ANSWER: The Headquarters Administration Appropriation was first included in the Department of Transportation Bill as a separate appropriation in FY 1983. Each year the appropriation language has authorized fund transfers either from or to the Federal Aviation Appropriation for Operations up to 7.5 per centum of the amount appropriated for Headquarters Administration. Thus far it has not been necessary to transfer funds between these two appropriations as they fund similar on-going type costs.

The need to transfer funds in FY 1986 is not foreseen at this time.

However, in a small appropriation such as this we urge the retention of this transfer authority in order to cover unforeseen developments in this, or the Operations appropriation.

SENATOR ANDREWS: Might the inclusion of the words "Appropriated Funds" be construed to apply only to the general fund portion? Why were no trust funds used to finance Headquarters Administration in FY 1984 and 1985?

ANSWER: Both general funds and trust funds are appropriated, so the term would apply to both. In FY 1984 and FY 1985 no trust fund monies were appropriated for the Headquarters Administration, and no transfer has been made to date from Operations.

PROCUREMENT

SENATOR ANDREWS: Obligations for Procurement in FY 1984 were over $5 million. What were the major items and why is the FY 1985 and 1986 level under $100,000? Are procurements being funded by operations?

ANSWER: The "Procurement" referred to is for the Procurement Activity under the Headquarters Administration Appropriation. It does not represent "procurement of things", it represents an Activity under the Headquarters Administration Appropriation. The scope of the "Procurement" Activity under the Headquarters Administration Appropriation was changed beginning with the FY 1985 Budget submission. Prior to that time, 72 positions and related expenses were included as "Procurement". Beginning in FY 1985 only 3 positions and less than $100,000 is included for "Procurement" to more properly align the Activity to the Washington Headquarters. The balance of positions and related expenses previously requiring over $5 million are now properly reflected under the Operations Appropriation.

POSITIONS

SENATOR ANDREWS: Last year's House testimony reflects 631 Headquarters Administration positions for FY 1984, and page 123 of the justification shows 674. Please explain. Provide for the record the FY 1984-1986 positions as shown on page 728-9 of last year's House Hearing.

ANSWER: The FY 1984 Budget contained 674 positions for Headquarters Administration (HA). When the FY 1985 Budget was submitted, several changes in HA were proposed and enacted in the FY 1985 Appropriation Bill to make execution and presentation of the programs more rational. These changes included: (1) only 3 procurement positions financed from HA instead of 72 contained in the FY 1984 Budget, (2) in FY 1984, the Europe, Africa, and Middle East Office was included in HA. This program is now funded from Operations. The 1984 column of the FY 1985 Budget was adjusted to make 1984 comparable to the changes made in 1985.

Below is a list of the positions for FY 1984-1986.

	FY 1984 (as adjusted)	FY 1985	FY 1986
Direction and Management	71	64	64
Communications Control	21	24	24
Accounting	69	66	66
Budget	45	45	45
Civil Rights	12	13	13
International Aviation	23	21	21
Labor Relations	13	13	13
Legal	80	81	81
Management Systems	60	56	53
Data Systems	33	46	44
Personnel Management	82	80	80
Public Affairs	28	28	28
Aviation Policy and Plans	53	54	54
Total, Direction, Staff and Supporting Services	590	591	586
Centralized Training	38	40	40
Procurement	3	3	3
Total, Headquarters Administration	631	634	629

HEADQUARTERS ADMINISTRATION - OBLIGATIONS

SENATOR ANDREWS: Last year FY 1985 travel for "Direction, Staff and Supporting Services" was estimated at $1.281 million. The current FY 1985 travel estimate for Headquarters Administration is $1.769 million. Even assuming that the entire difference is attributable to Training, why is there no apparent travel reduction as a result of Congress' funding reduction of 7.5 percent?

ANSWER: The amount for Direction, Staff and Supporting Services travel in the FY 1985 Estimate as submitted to the Congress last year was $1.857 million. The FY 1985 column (current program) of the FY 1986 Estimate reflects $1.639 million, a 11.7% decrease. The amount for Headquarters Administration travel in the FY 1985 Estimate was $1.584 million. The FY 1985 column (current program) of the FY 1986 Estimate reflects $1.487 million ($1.674 million reflected in Object Classification sheets minus $.187 million for Section 2901 of the Deficit Reduction Act Rescission Proposal), a decrease of 6.1%.

HEADQUARTERS ADMINISTRATION

SENATOR ANDREWS: It appears that rent, communications and utilities as well as equipment obligations turned out to be overstated in last year's request, compared to current estimates. Is the same conclusion valid for FY 1986? What are the "other services" obligations in FY 1986 and why does this classification decrease 5 percent over FY 1985? What explains the 49 percent increase from FY 1984?

ANSWER: The FY 1985 Headquarters Administration (HA) Appropriation request to Congress was $72,370,000. This request was reduced $5,470,000 through House/Senate actions and another $1,065,000 because of the Deficit Reduction Act. Many of these reductions where taken in the rent, communications and utilities, and equipment categories and account for the lower levels reflected in the FY 1985 column of the FY 1986 request. Therefore, FY 1985 and FY 1986 amounts are not overstated.

Other services requested for HA are $27,321,000 in FY 1985 and $26,180,000 in FY 1986. This represents a decrease of approximately 4 percent. This decrease is attributed to administrative cost savings. FY 1984 other services actual obligations for HA were $17,627,000. The increase from FY 1984 to FY 1986 is attributed to changes proposed (and approved) in the FY 1985 request, whereby certain common use items previously charged to Operations Appropriation in FY 1984 would be charged to HA in FY 1985 and FY 1986.

EQUIPMENT

SENATOR ANDREWS: Last year, FY 1985 obligations for Headquarters Administration equipment were estimated at $5.558 million. What caused the reduction to $1.5 million? What equipments are necessary? What ADP equipment will cost $779,000 (page 130)?

ANSWER: The amount of $5,558,000 was requested in the FY 1985 column of the FY 1985 Congressional request. The FY 1985 column of the FY 1986 Congressional request contains $1,549,000 for equipment. This reduction of $4,009,000 is the result of Congressional action which lowered funding levels and reductions made in FY 1985 by FAA's implementation of Section 2901 of the Deficit Reduction Act. Equipment planned for FY 1986 includes additional computer terminals and electronic storage devices at a cost of $779,000 (including about $250,000 in software) for program areas throughout the agency where the extension of ADP capabilities has been determined to be necessary and cost beneficial. Program areas where this equipment is most needed include: air traffic administrative automation, aviation safety analysis system, project management system, uniform payroll and accounting systems, and office automation.

METROPOLITAN WASHINGTON AIRPORTS

SENATOR ANDREWS: $13 million is requested for the FY 1986 construction account for Dulles and National, and an additional $1,465,000 for capital requirements. What thought has been given to zeroing these out in view of the legislation to transfer the airports to a regional authority?

ANSWER: The transfer legislation was given careful consideration in developing capital requirements for FY 1986. Funding for new development and expansion of facilities was viewed as appropriately left to the new Airport Authority following transfer of the airports; consequently, no new initiatives were included in the FY 1986 budget request. It was recognized, however, that a considerable amount of repair and rehabilitation work at the airports must be accomplished on a continuing basis or risk disruptive and costly emergency repairs.

To delay needed capital investment for repair and rehabilitation while the transfer questions are being resolved is a disservice to the traveling public, the airlines, and also to the new Airport Authority. Sufficient time is needed to pass the legislation authorizing the transfer and then negotiate the terms of the transfer, a process that may take up to two years. If capital investment is curtailed throughout that period, the new operators would inherit two airports with overaged equipment and deteriorating physical plants.

We decided, therefore, to include in the FY 1986 budget request equipment replacement and facility repair and rehabilitation projects to keep the equipment and physical plants of the two airports current.

SENATOR ANDREWS: What provision was included in the Administration's airport transfer legislation to return unobligated FY 1984, 1985 and 1986 construction moneys to the Treasury, since this is a three-year account?

ANSWER: It is anticipated that the proposed transfer legislation will provide that unobligated balances remaining on the date of transfer will be available to the Airport Authority, but only to the extent that the Authority agrees to add these amounts to the price (plus interest) it will pay the Federal Government for the airports.

SENATOR ANDREWS: Provide for the record a revised FY 1986 request for the operating and construction accounts including only those items essential for safety reasons.

ANSWER: Only those items considered essential for safe and efficient operation, maintenance, and protection of National and Dulles Airports were included in the FY 1986 request. As previously mentioned, the request purposely excluded those types of investments which we believed could await the actions of the new Airport Authority.

SENATOR ANDREWS: What impact on the FY 1986 Airport Grant and Facilities and Equipment accounts will result from Washington airports transfer? What are the ten-year implications of transfer for those accounts?

ANSWER: The Facilities and Equipment (F&E) account currently funds air traffic facilities and air navigation aids at all air carrier airports in the United States, including National and Dulles Airports, and will continue to do so after the transfer. The F&E account will therefore not be impacted by the transfer.

Airport grant program levels are keyed primarily to the revenue levels generated by the Airport and Airway Trust Fund, and not the level of grant requests received from airports. Grant requests always exceed grant program levels. The transfer of National and Dulles Airports is therefore not expected to impact the airport grant funding levels, but will impact the distribution of programmed funds to the extent grants are awarded to National and Dulles. The transfer is not expected to be finalized in time for the new airport authority to obtain grants in FY 1986. Since the Airport and Airway Improvement Act of 1982 continues only through 1987, the implications for 1988 and beyond are highly speculative.

SENATOR ANDREWS: Contracting out of police dispatching, nursing, warehousing and upholstering positions does not appear to result in the required 10 percent savings for A-76 non-Federal award. Please explain.

ANSWER: The A-76 cost comparison formula computes employee benefits at 27.3 percent of base pay costs, which includes a factor for unfunded retirement liability. The budget includes only funded employee benefits, which is 13.7 percent of base pay costs. When the unfunded retirement liability is added to budgeted costs, the total in-house costs exceed contract costs by more than 10 percent.

FY 1986 Costs	National	Dulles	Total
Funded in-house costs	$270,000	$249,000	$519,000
Unfunded retirement liability	32,200	29,800	62,000
Total in-house costs	$302,200	$278,800	$581,000
Contract cost estimate	247,000	230,000	477,000
Savings	$ 55,200	$ 48,800	$104,000

SENATOR ANDREWS: Dulles Airport was projected last year to realize a net loss in FY 1984 and 1985. However, this year's justification shows a $1.4 million profit in FY 1984 and a $3.4 million smaller loss in FY 1985. What accounts for the increased revenues?

ANSWER: The strong growth trend at Dulles Airport has generated considerably more revenue than was anticipated a year ago. Passenger traffic increased 17 percent during FY 1984 and to date is increasing at an even more rapid rate during FY 1985.

SENATOR ANDREWS: What caused the "Extraordinary Income" of $3.9 million for Dulles in FY 1984?

ANSWER: These are the funds which were deposited in a trust account by the air carriers at Dulles during calendar years 1981 and 1982 for the purpose of purchasing new buses and making other improvements to the Dulles ground transportation system. In May 1983, the U.S. District Court ruled that these funds were Federal funds and could not be used to purchase buses. Congress subsequently appropriated $2.5 million to purchase 14 buses in FY 1984. Following a Court of Appeals ruling in January 1984 which upheld the District Court decision, the $3.9 million in principal and interest which had accumulated during the life of the trust was deposited as receipts in the general fund of the U.S. Treasury. We have identified these one-time funds as "Extraordinary Income" to distinguish them from regular revenues.

SENATOR ANDREWS: What is the status of preliminary design and engineering studies for a mid-field terminal? How much has been obligated to date on this project? Are current activities on hold pending the outcome of transfer legislation?

ANSWER: A design consultant (Skidmore, Owings and Merrill) has been selected to prepare the preliminary design for the midfield terminal and final award of the contract is imminent. Award of this contract will be the first obligation for this project. Current activities are not on hold pending the outcome of the transfer legislation.

FACILITIES AND EQUIPMENT

SENATOR ANDREWS: What is the current facilities and equipment unobligated balance, and how much is attributed to contract slippage?

ANSWER: The unobligated balance at the end of FY 1984 was $1.11 billion, and we received new budget authority of $1.37 billion at the beginning of FY 1985. So far in FY 1985 (through 2/28/85), we have obligated $489 million, resulting in a current unobligated balance of $1.99 billion. However, by the end of the fiscal year, we expected the unobligated balance to be down to $1.28 billion.

Very little of the unobligated balance is due to contract slippage. The majority of the unobligated balance is funds committed to projects for which the major hardware contract has been awarded and the remaining funds are required for site engineering, preparation, provisioning, construction, installation, flight inspection, etc. These committed funds are a result of the F&E full funding process which provides earmarked funding for all phases of an F&E project. Funds are made available at the beginning of a project and are reserved for that project. Normally the first year's obligations for a major project go for major hardware items, the second year's obligations are for test equipment and other supporting procurements, the third year's obligations go for site engineering, preparation, provisioning, and fourth and fifth year's obligations are for construction and installation. The funds not obligated the first year are carried over for obligation in the second through fifth years. This balance is reserved for completion of the specific project for which it was appropriated and is waiting for the proper time to be obligated. This full funding concept was set up by Congress many years ago as the best way to fund F&E programs. Full funding was a good idea when conceived, and the process continues to be effective since it provides for very efficient funding and management control of projects.

SENATOR ANDREWS: What is being done to streamline the contract approval process? Will acceleration of the approval process erode procurement quality assurance?

ANSWER: As the result of a study initiated by FAA in October 1984 and conducted jointly by the SEIC (Martin-Marietta), an independent consultant, and an FAA official (from AAD directorate), a Report of Review of the FAA Acquisition Process was forwarded to the Administrator on 12/12/84. Recommendations developed during the study are summarized as follows:

> Administrator and staff promote better OST-FAA rapport. Gain OST confidence in quality of FAA submittals.

FAA write Standard Operating Procedures, adopt a "Project Managers Team" approach and set time limits for key document origination and processing.

Cluster highly dependent projects into fewer NAS Plan programs. Strengthen Program Manager's authority & reporting channels.

OST & FAA set semi-annual program review policy. Call ad hoc reviews if program trending into difficulty.

The FAA has initiated actions and/or is currently developing procedures to implement these recommendations.

Acceleration of the procurement process will not erode procurement quality assurance.

FACILITIES AND EQUIPMENT OBLIGATIONS

SENATOR ANDREWS: The estimated obligations for FY 1986 total $1.1 billion. How much of this amount is from prior year budget authority, and how much is from the $1.15 billion requested in FY 1986?

ANSWER: Estimated obligations in FY 1986 against prior year budget authority are $472.4 million and estimated obligations against new budget authority for FY 1986 are $605.4 million.

SENATOR ANDREWS: Please explain both the overall reduction of FY 1984 obligations (from last year's estimate of $549 million to actual level of $364 million). Address particularly the 62 percent reduction in obligations for centers, and 25 percent for towers.

ANSWER: The reduction in FY 1984 obligations was caused primarily by the slippage of two contract awards. The major slippage of $163 million was for the Mode-S Beacon System program which was awarded on October 5, 1984, (five days into the next fiscal year). The other contract award slippage of $22 million was for the Central Weather Processor program which was awarded in January 1985. These contract slippages were primarily responsible for the reductions in obligations for centers and towers.

SENATOR ANDREWS: On what basis does FAA project that FY 1985 obligations will increase from the FY 1984 level of $364 million to $1.2 billion? (Last year's FY 1985 obligation estimate was $971 million. Given a budget authority request $287 million higher than enacted.)

ANSWER: FY 1985 planned obligations are expected to increase to $1.2 billion over the 1985 estimate of $971 million. Given $1,370 million in new budget authority, the basis for F&E's FY 1985 estimate reflects the addition of a number of 1984 program slippages rescheduled for obligation this fiscal year and detailed 1985 obligation plans from regions, centers, and headquarter's offices. Obligations so far in FY 1985 (through February) are $489 million.

SENATOR ANDREWS: Why was the actual FY 1984 reimbursable program only $8.5 million. As opposed to the projected $15 million level? What impact will that reduction have on FY 1985 and 1986?

ANSWER: The FY 1984 estimate of $15 million in the FY 1985 Congressional submission included approximately $2 million in anticipated agreements with foreign countries, an additional $1 million in new work with States, counties, and cities and $2 million in anticipated agreements with the Defense Department (USAF). In actuality, the total mix of agreements in 1984 ($8.5 million) changed since the budget was submitted. Actuals for 1984 were based on reimbursable agreements "in hand" (net recoveries) and reflected decreases in the areas, discussed above, for work that did not materialize. For this reason, the FY 1985 and FY 1986 estimates were decreased to $13 million in each year.

SENATOR ANDREWS: The unobligated balances available at the end of FY 1984 increased at a 20 percent rate, compared to last year's justification. Please explain. Why does the budget assume roughly the same level of FY 1985 obligations (assuming the Congressional reduction of $287 million) if actual experience casts doubt on FAA's ability to obligate funds? What has been obligated to date this fiscal year?

ANSWER: The unobligated balances at the end of FY 1984 increased roughly 20%, compared to the justification submitted in the FY 1985 budget, due to unanticipated 1984 obligation slippages for the Mode-S program and the Central Weather Processor program which involved approximately $185 million. Contract awards for these programs have been accomplished and have contributed to the increased FY 1985 obligation goal of $1.2 billion. To date, through February 1985, obligations are on track at $489 million which is roughly 41% of planned FY 1985 obligations.

MICROWAVE LANDING SYSTEMS (MLSs)

SENATOR ANDREWS: It has recently been estimated that FAA certification of production airborne MLS equipment for airline aircraft to conduct straight-in approaches will not be achieved until mid-1988 and that FAA certification of more sophisticated equipment to permit curved/segmented MLS approaches by airline aircraft is unlikely before 1990. Fleetwide installation of MLS equipment in airline aircraft will take a number of years beyond certification. During the next several years, the percentage of aircraft capable of using MLS would be very small. Wouldn't it be reasonable to extend the MLS ground implementation program to avoid capital investment in costly facilities sitting idle and the need to maintain these facilities? How many and for how long will MLS's sit unused? Wouldn't it make sense to invest now in additional ILS facilities which offer immediate safety and poor weather capacity benefits and re-examine FAA's MLS implementation program to time phase the program so that it more closely coincides with the user's ability to implement the airborne capability?

ANSWER: Certification of production MLS receivers for conducting straight-in approaches has already been accomplished for some aircraft. In addition, Aeronautical Radio, Inc./Airlines Electronic Engineering Committees plan to complete standards by late 1986 for MLS receiver installation and certification on major airline aircraft.

The Radio Technical Commission for Aeronautics (RTCA), Special Committee-151 (SC-151) will recommend the minimum operational performance standards (MOPS) for airborne MLS RNAV equipment within the next year. Therefore, we can expect MLS RNAV hardware will be available by 1988. Initial approach criteria will be published in FAA Order 8260.3B, U.S. Terminal Instrument Approach Criteria (TERPS), by October 1985.

Discussions with several manufacturers of large aircraft have been held to define a certification program for Category II/III operations and are scheduled to be completed by the 1988 timeframe.

The MLS ground implementation program must not be extended. Ground deployment must be available to stimulate aircraft equipage of avionics. Our transition plan was announced in 1981. With the enormous MLS capabilities of a positioning navigational system rather than those limits imposed by ILS, we feel positive in providing a better service to the user in terms of cost savings for their future operation and a safer more accurate navigational system.

The ILS/MLS policy has been reviewed and adjusted to provide a number of additional ILS's to those airports requiring immediate safety and poor-weather capacity benefits.

SENATOR ANDREWS: Update the MLS installation information provided last year on page 303 of the Senate hearing.

ANSWER: The current procurement and installation schedule is as follows:

1st procurement (FY 1982 - FY 1986) - 208 systems
The first network is scheduled to be installed in October 1986.
2nd procurement (FY 1987 - FY 1991) - 500 systems
3rd procurement (FY 1992 - FY 1997) - 542 systems

AIRWAY SCIENCE CURRICULUM

SENATOR ANDREWS: What level of cost-sharing will be required of FY 1985 grantees?

ANSWER: A decision on the level of cost-sharing has not been made at this time. However, the level of cost-sharing required will be stated in the solicitation for proposals.

SENATOR ANDREWS: The Committee expects that grants would be of sufficient size as to ensure a benefit in the form of qualified, trained aviation professionals. What is the average size and type grant awarded to date.

ANSWER: The following table lists the type and size of grants awarded, in process, or planned.

FISCAL YEAR	GRANTEE	STATUS	SIZE ($MILLION)	TYPE
1982	University of North Dakota	Awarded	4.0	Construction/ Equipment
1983	University of North Dakota	Awarded	2.75	Construction/ Equipment
1983	Hampton University	In Process	2.25	Construction/ Equipment
1985	University of North Dakota	In Process	1.0	Construction/ Equipment
1985	To Be Awarded	Planned	4.0	Construction/ Equipment

SENATOR ANDREWS: Why does the proposed appropriation language delete the proviso relating to this program?

ANSWER: No new budget authority is requested for the airway science demonstration project in FY 1986. Therefore, the appropriation language providing for the project in FY 1985 is proposed for deletion in FY 1986. The financing provided in prior fiscal years is considered sufficient to carry out the program.

SYSTEMS ENGINEERING AND INTEGRATION (SEI) CONTRACTOR

SENATOR ANDREWS: Has the role and responsibilities of the SEI Contractor changed since they were hired in January 1984? How, why, and what are real and anticipated results?

ANSWER: Fundamentally, there has been no change in role and responsibilities. In terms of timing, the SEI has assummed a greater role in National Airspace System Plan design, system interface, and technical support to individual projects than was originally anticipated. This is primarily due to their technical strengths in these areas. The result is providing a much better technical design for the NAS as a whole and for individual subsystems. We should realize results in subsequent years during test, integration, installation, and operation due to better planning and engineering design. At the present time, we are negotiating with the SEI to expedite and intensify project specific support for the Advanced Automation Program Office. These adjustments could result in a cost increase unless it is offset by a corresponding decrease within the life of the contract.

SENATOR ANDREWS: Last year FAA identified those projects in the NAS Plan which the SEI Contractor would work with FAA in developing -- has that list expanded? If so, why and will the cost of the SEI contract increase as a result.

ANSWER: The basic approach reflected in the Senate Hearings last year has not changed. There have been some changes in the group to which an individual project is assigned. The few new projects (e.g., sustain New York TRACON) will be assigned to a group when a new project is approved. To the extent that a new project requires specific SEI project support, a cost increase would be incurred unless a corresponding offset can be found.

SENATOR ANDREWS: How does FAA rate the progress or performance of the SEI Contractor to date? What has been determined for fee awards so far?

ANSWER: Overall, the SEI Contractor's performance to date has been very good, but we still expect improvements as the Contractor more fully understands FAA programs, processes, and procedures. The SEI Contractor's technical contribution in system design, interface, software independent verification, and validation (IV&V), etc., has been excellent. The Contractor has earned a total award fee of $2,442,354 for the period of January 1984 through January 1985.

SENATOR ANDREWS: In the August 1984 audit of the NAS Plan, the SEI contractor concluded that the cost savings of $19.9 billion presented in the NAS Plan is overstated by 5-10 percent. Do you agree?

ANSWER: The 1985 edition of the NAS Plan which revises the NAS Plan cost savings from $19.9 billion to $18.3 billion includes an adjustment that reflects this conclusion.

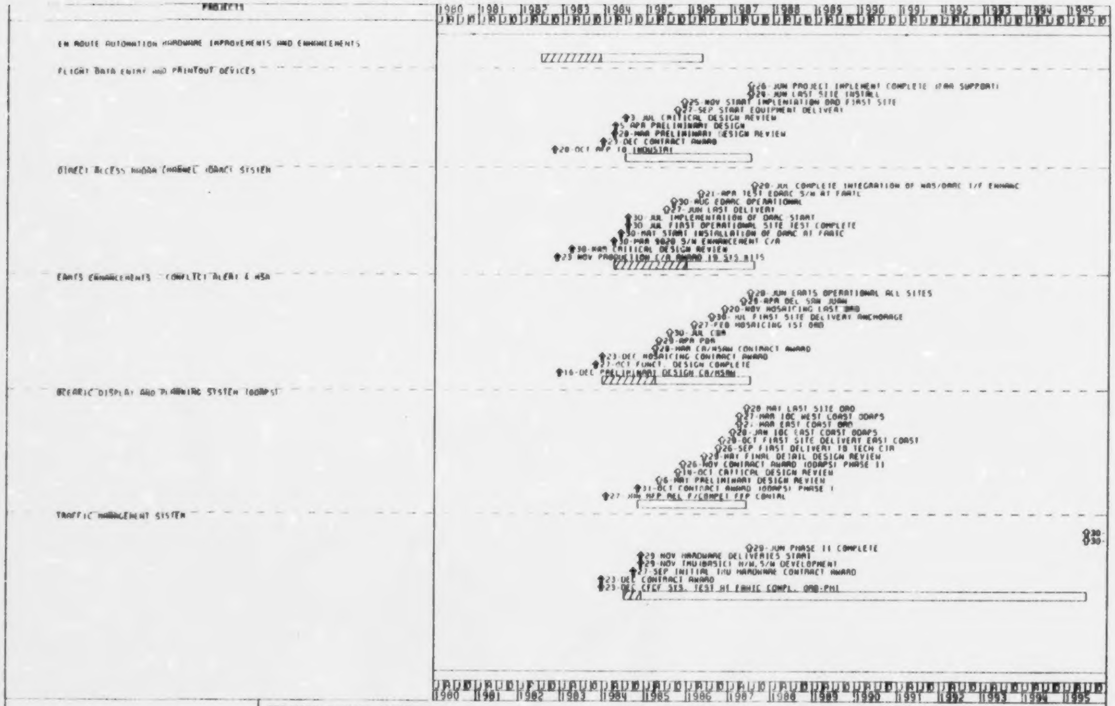
SENATOR ANDREWS: What are the reasons for the over estimate?

ANSWER: The SEI audit concluded that the 1984 NAS Plan had underestimated the labor requirements to operate and maintain the NAS in the 1990 to 2000 period. The resulting audit revision reduced savings by $500 million. Audit follow-up activities included a reconciliation of the NAS Plan to five-year operating plans which further reduced savings by $700 million. Finally, estimated savings declined by $400 million due to the lower air traffic activity forecasts.

PROGRAM SCHEDULE

SENATOR ANDREWS: The SEI Contractor says there is a need for a program "Master Schedule", for the NAS Plan Implementation, and was to prepare it by January 31, 1985. Has this schedule been developed? Please submit it for the record. If not completed, when will it be?

ANSWER: The NAS Program Master Schedule was developed in January 1985, reviewed, and then baselined on March 27, 1985. A copy of the schedule is attached.



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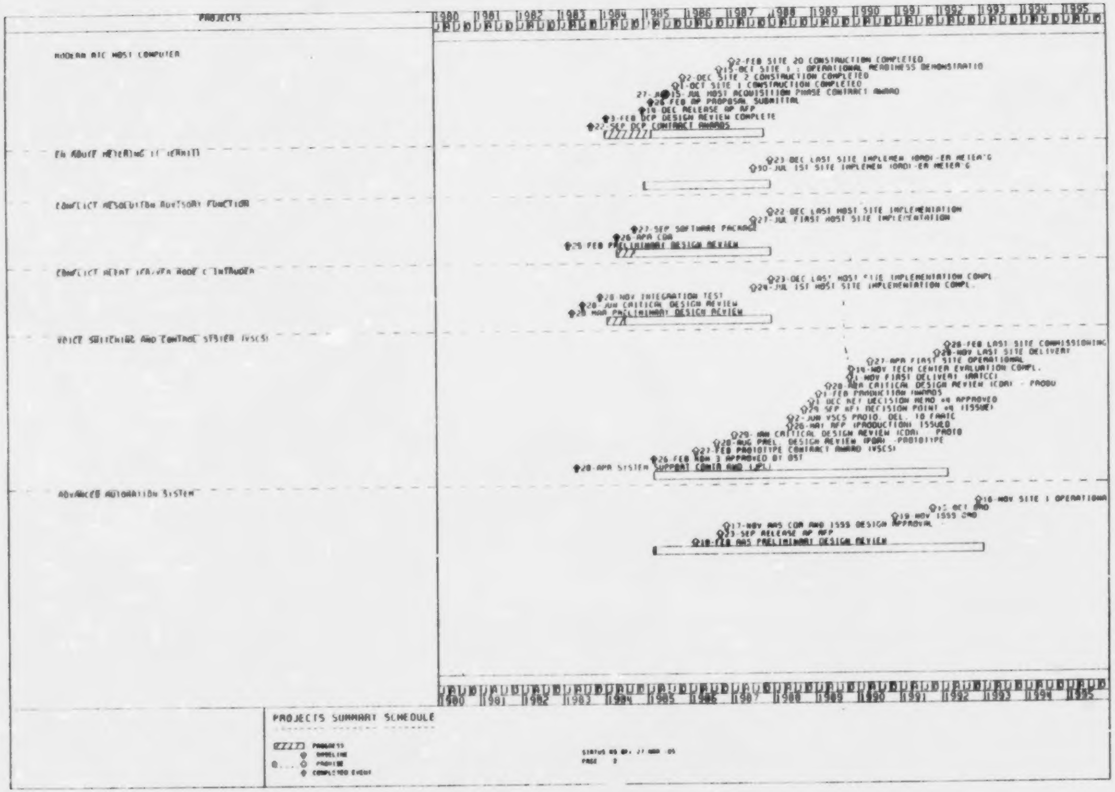

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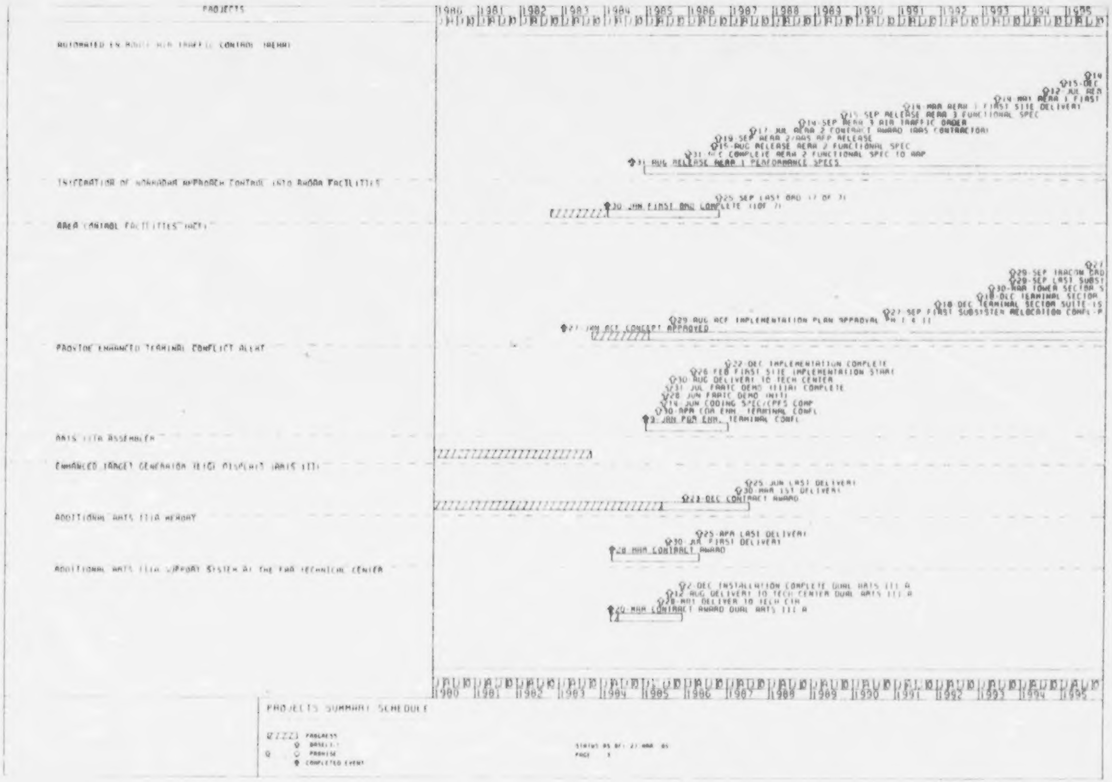

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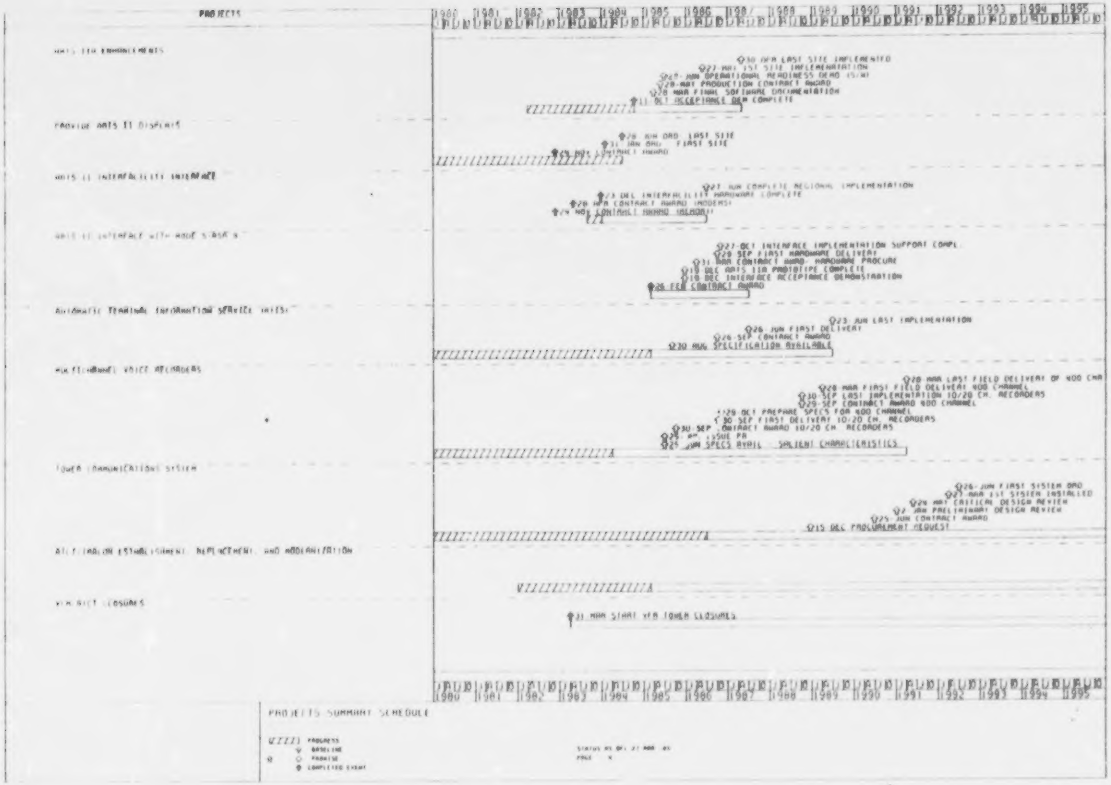

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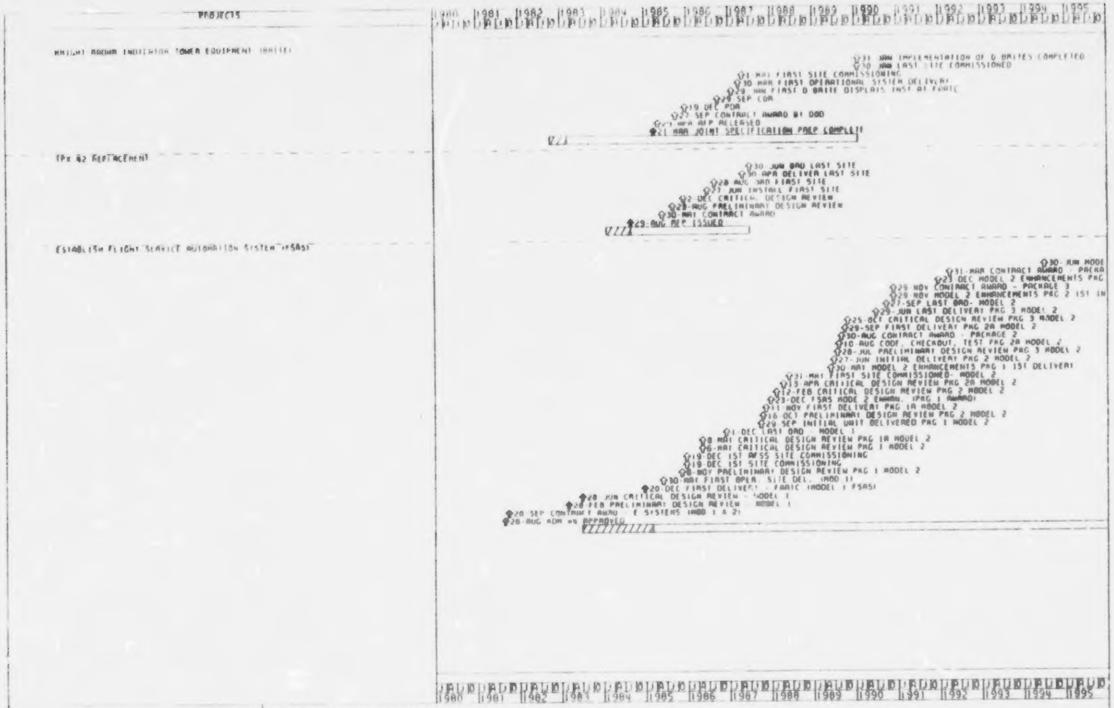

PROJECTS SUMMARY SCHEDULE

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◇ PROMISE
● COMPLETED EVENT

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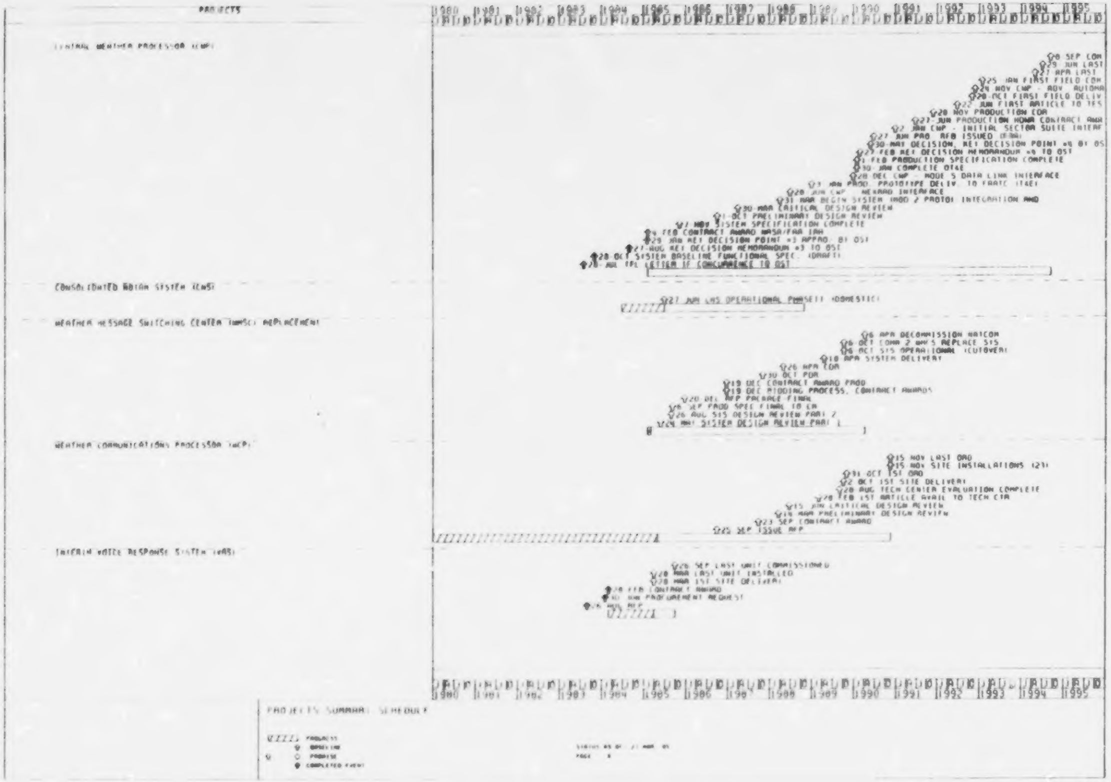

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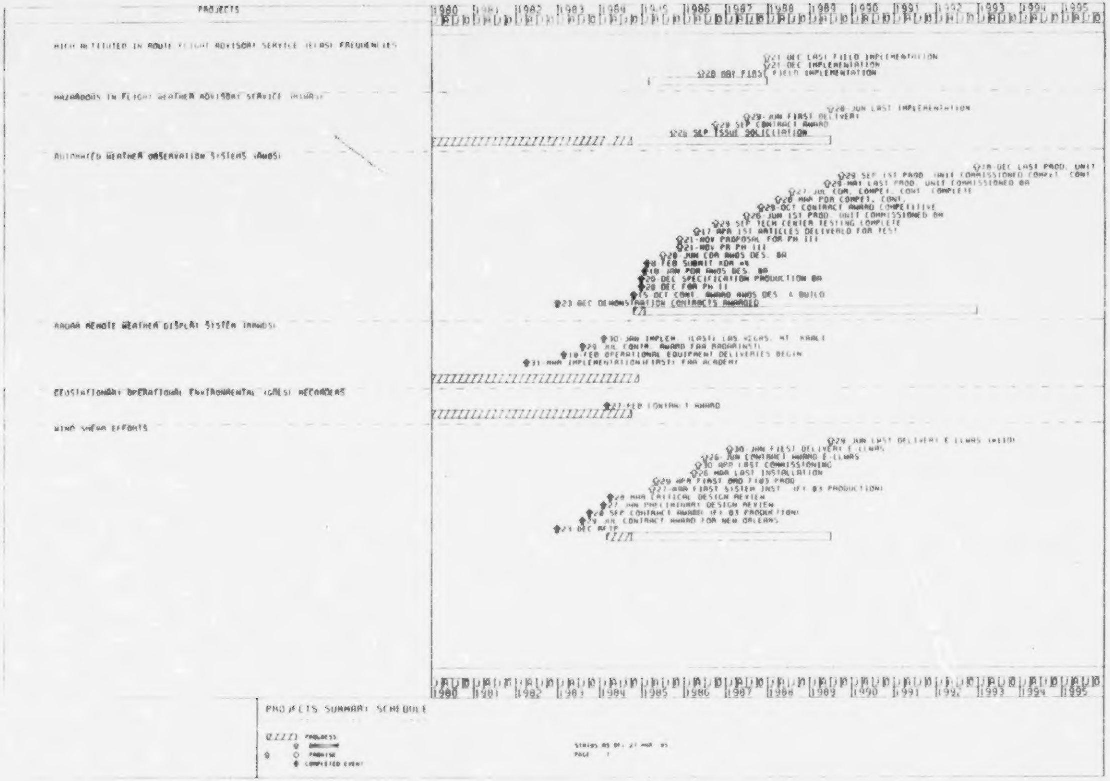
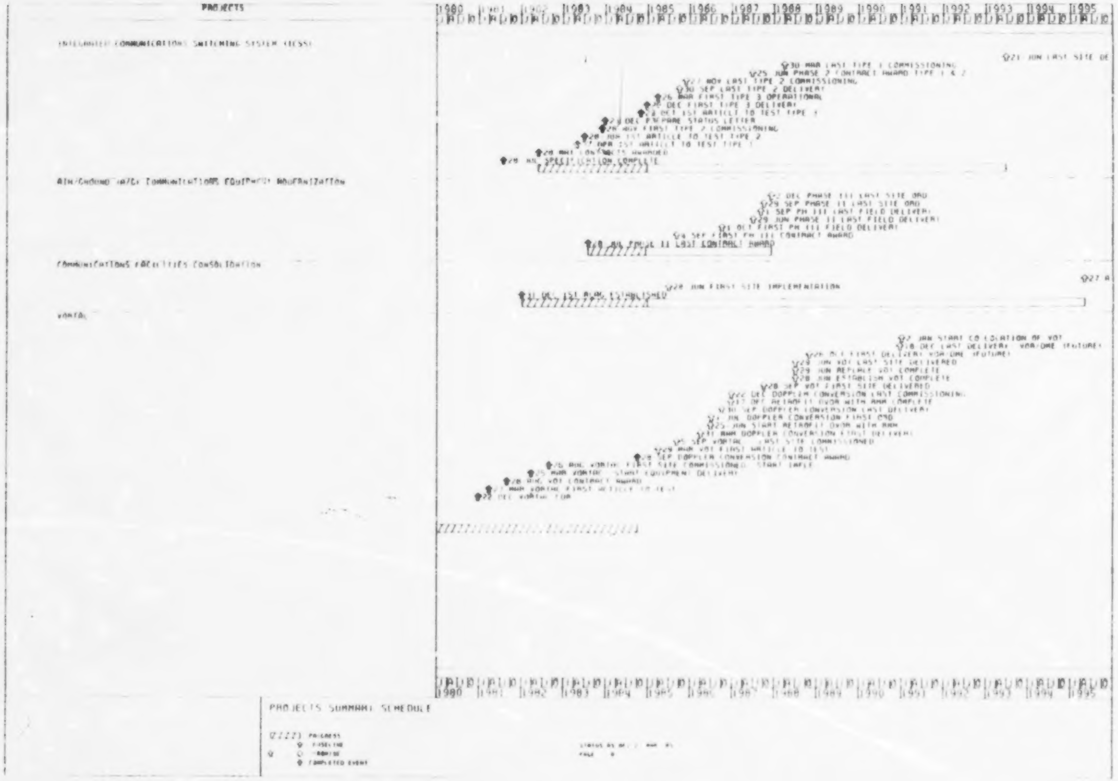


PROJECTS SUMMARY SCHEDULE


PROJECTS
1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995
INTEGRATED COMMUNICATIONS SWITCHING SYSTEM (ICSS)
30 MAR LAST TYPE 1 COMMISSIONING
21 JUN LAST SITE DE
25 JUN PHASE 2 CONTRACT AWARD TYPE 1 & 2
27 NOV LAST TYPE 2 COMMISSIONING
30 SEP LAST TYPE 2 DELIVERY
26 MAR FIRST TYPE 3 OPERATIONAL
DEC FIRST TYPE 3 DELIVERY
OCT 1ST ARTICLE TO TEST TYPE 3
29 DEC PREPARE STATUS LETTER
28 NOV FIRST TYPE 2 COMMISSIONING
28 JUN 1ST ARTICLE TO TEST TYPE 2
APR 1ST ARTICLE TO TEST TYPE 1
28 MAY CONTRACTS AWARDED
29 AUG SPECIFICATION COMPLETE
AIR/GROUND (A/G) COMMUNICATIONS EQUIPMENT MODERNIZATION
2 DEC PHASE III LAST SITE ORD
29 SEP PHASE II LAST SITE ORD
1 SEP PH III LAST FIELD DELIVERY
29 JUN PHASE II LAST FIELD DELIVERY
1 OCT FIRST PH III FIELD DELIVERY
4 SEP FIRST PH III CONTRACT AWARD
28 AUG PHASE II LAST CONTRACT AWARD
COMMUNICATIONS FACILITIES CONSOLIDATION
27 A
28 JUN FIRST SITE IMPLEMENTATION
11 DEC 1ST RCAG ESTABLISHED
VORTAC
2 JAN START CO LOCATION OF VOT
18 DEC LAST DELIVERY VOR/DME (FUTURE)
26 OCT FIRST DELIVERY VOR/DME (FUTURE)
29 JUN VOT LAST SITE DELIVERED
29 JUN REPLACE VOT COMPLETE
28 JUN ESTABLISH VOT COMPLETE
28 SEP VOT FIRST SITE DELIVERED
22 DEC DOPPLER CONVERSION LAST COMMISSIONING
17 DEC RETROFIT DVOR WITH RMM COMPLETE
30 SEP DOPPLER CONVERSION LAST DELIVERY
JUN DOPPLER CONVERSION FIRST ORD
25 JUN START RETROFIT DVOR WITH RMM
MAR DOPPLER CONVERSION FIRST DELIVERY
5 SEP VORTAC LAST SITE COMMISSIONED
29 MAR VOT FIRST ARTICLE TO TEST
28 SEP DOPPLER CONVERSION CONTRACT AWARD
5 AUG VORTAC FIRST SITE COMMISSIONED START IMPLE
25 MAR VORTAC START EQUIPMENT DELIVERY
28 AUG VOT CONTRACT AWARD
MAR VORTAC FIRST ARTICLE TO TEST
22 DEC VORTAC FOR
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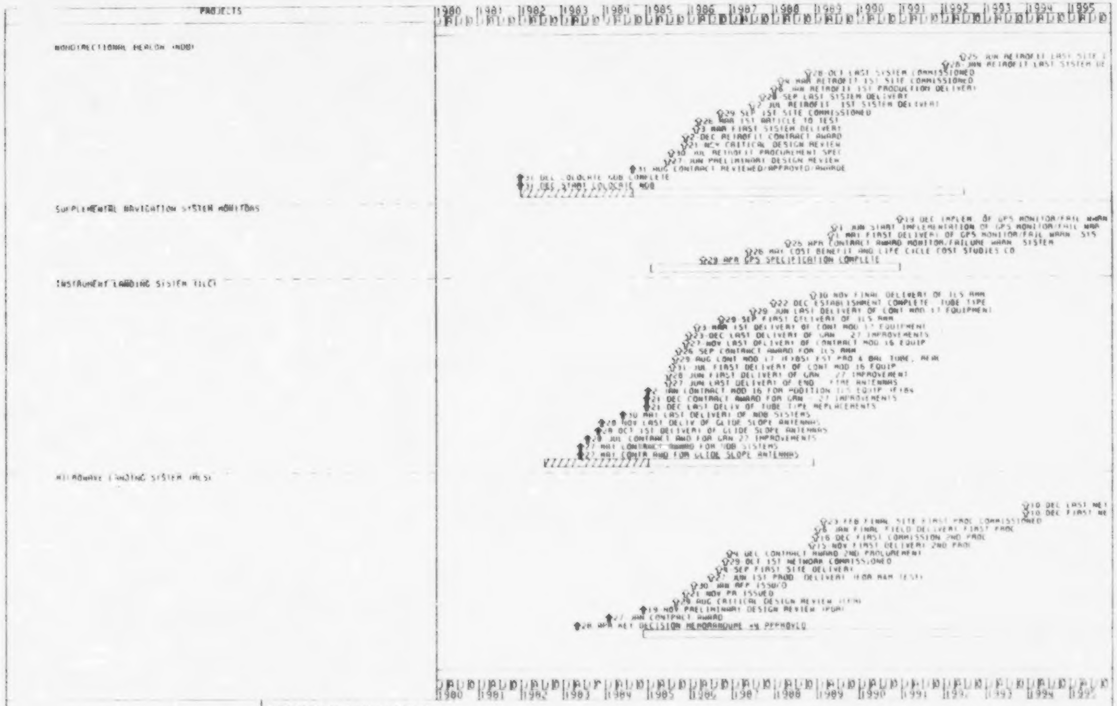

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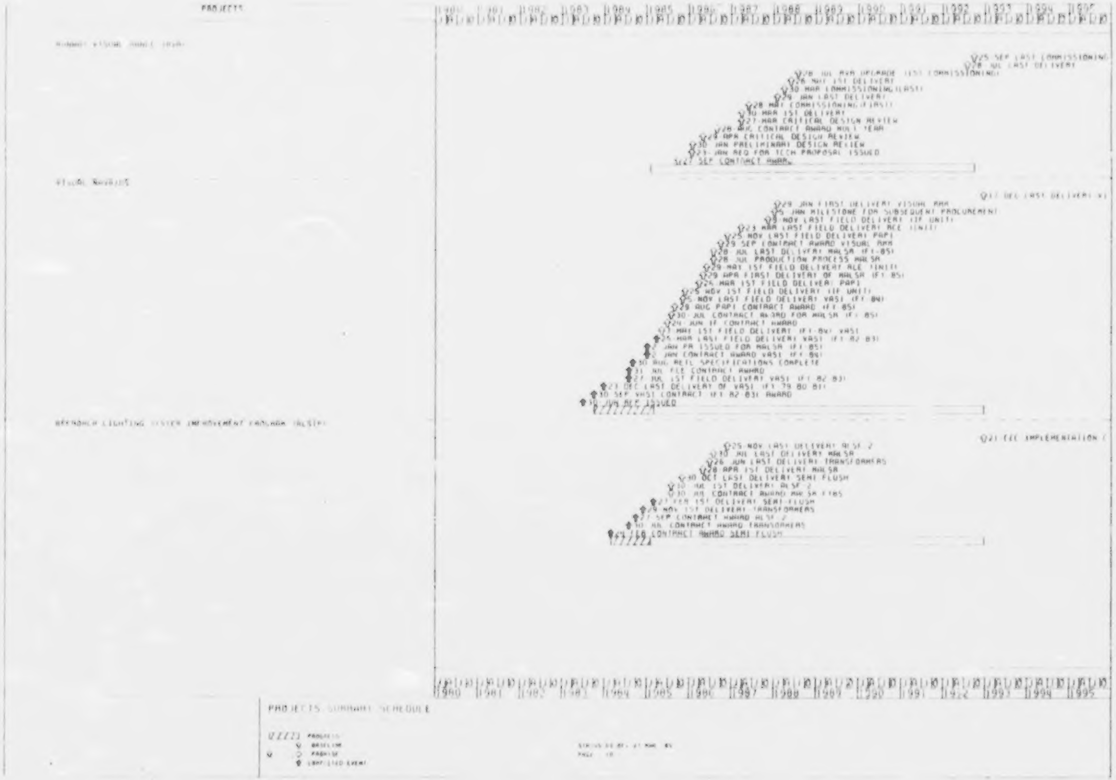

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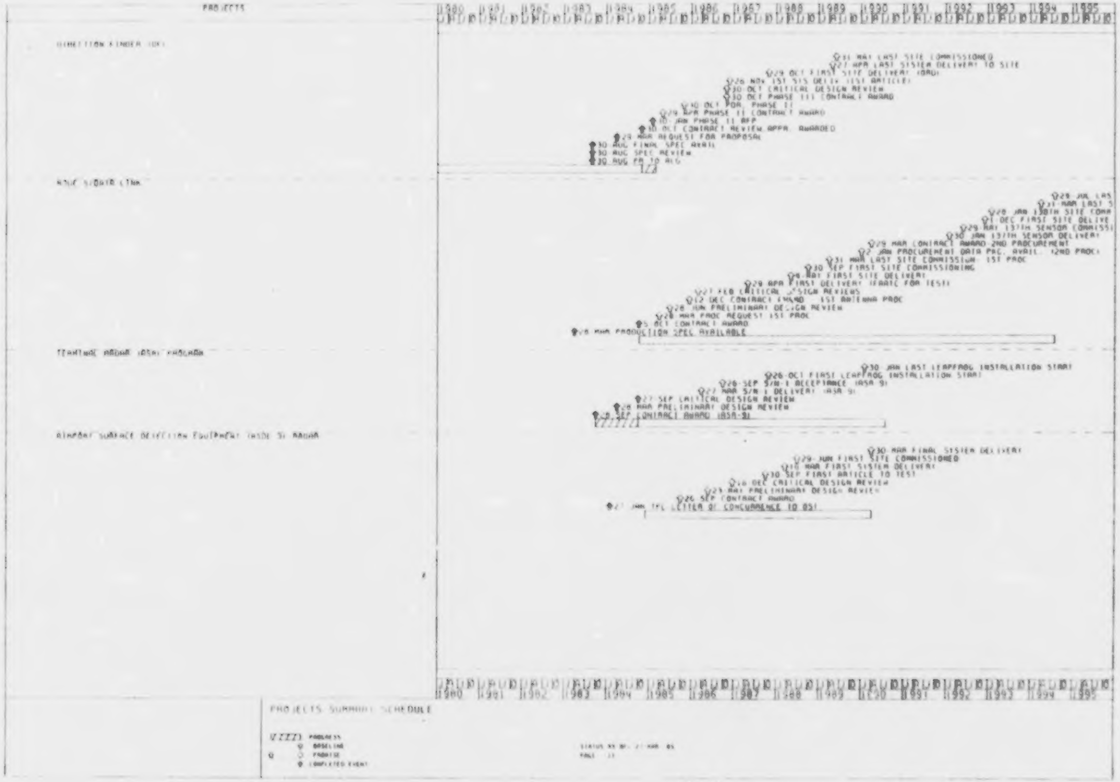

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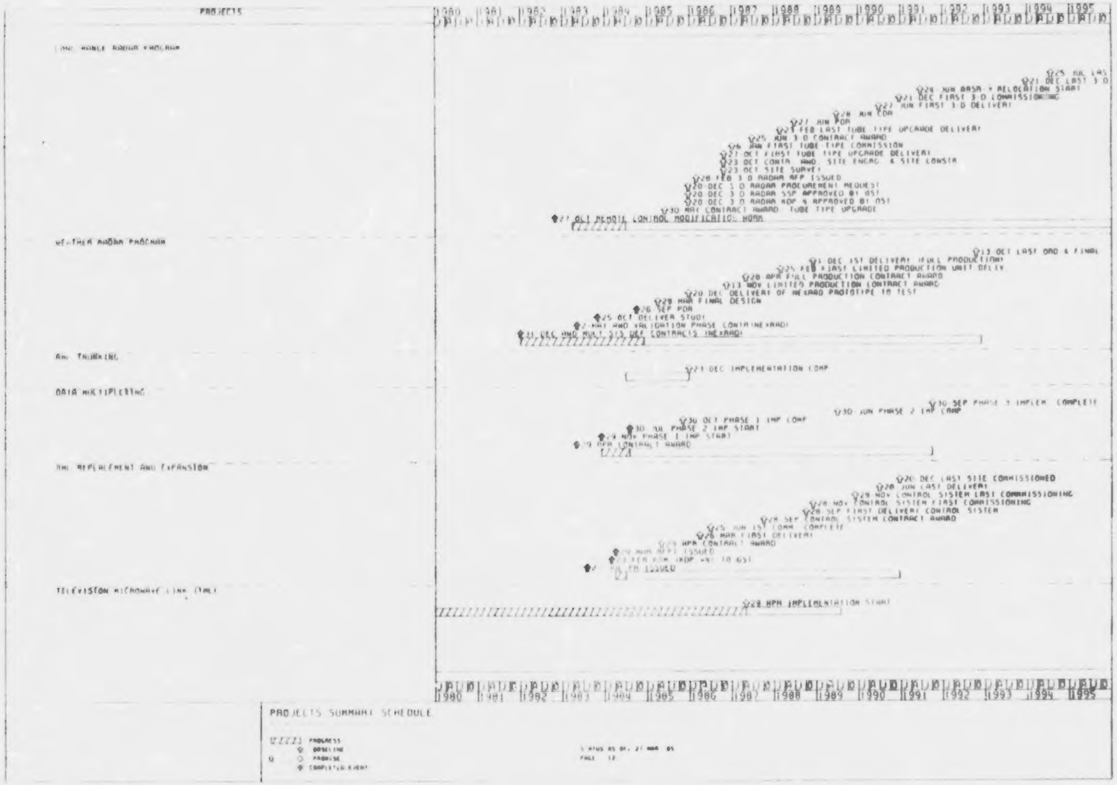
PROJECTS
1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995
LONG RANGE RADAR PROGRAM
25 JUL LAS
21 DEC LAST 3 D
24 JUN RRSA + RELOCATION START
21 DEC FIRST 3 D COMMISSIONING
27 JUN FIRST 3 D DELIVERY
28 JUN CDR
27 JUN PDR
21 FEB LAST TUBE TYPE UPGRADE DELIVERY
25 JUN 3 D CONTRACT AWARD
6 JAN FIRST TUBE TYPE COMMISSION
27 OCT FIRST TUBE TYPE UPGRADE DELIVERY
23 OCT CONTR AWD SITE ENGRG & SITE CONSTR
23 OCT SITE SURVEY
28 FEB 3 D RADAR RFP ISSUED
20 DEC 3 D RADAR PROCUREMENT REQUEST
20 DEC 3 D RADAR SSP APPROVED BY DSI
20 DEC 3 D RADAR RDP 4 APPROVED BY DSI
30 MAY CONTRACT AWARD TUBE TYPE UPGRADE
27 OCT REMOTE CONTROL MODIFICATION WORK
WEATHER RADAR PROGRAM
13 OCT LAST DRD & FINAL
1 DEC 1ST DELIVERY (FULL PRODUCTION)
25 FEB FIRST LIMITED PRODUCTION UNIT DELIV
28 APR FULL PRODUCTION CONTRACT AWARD
13 NOV LIMITED PRODUCTION CONTRACT AWARD
20 DEC DELIVERY OF WEXRAD PROTOTYPE TO TEST
29 MAR FINAL DESIGN
26 SEP PDR
25 OCT DELIVER STUDY
2 MAY AWD VALIDATION PHASE CONTR (NEXRAD)
31 DEC AWD MULT SYS DEF CONTRACTS (NEXRAD)
RML TRUNKING
23 DEC IMPLEMENTATION COMP
DATA MULTIPLEXING
30 SEP PHASE 3 IMPLEM COMPLETE
30 JUN PHASE 2 IMP COMP
30 OCT PHASE 1 IMP COMP
30 JUL PHASE 2 IMP START
29 NOV PHASE 1 IMP START
19 APR CONTRACT AWARD
RML REPLACEMENT AND EXPANSION
20 DEC LAST SITE COMMISSIONED
28 JUN LAST DELIVERY
29 NOV CONTROL SYSTEM LAST COMMISSIONING
28 NOV CONTROL SYSTEM FIRST COMMISSIONING
28 SEP FIRST DELIVERY CONTROL SYSTEM
28 SEP CONTROL SYSTEM CONTRACT AWARD
25 JUN 1ST COMM COMPLETE
26 MAR FIRST DELIVERY
29 APR CONTRACT AWARD
29 AUG RFP ISSUED
23 FEB RDP #4 TO DSI
TR ISSUED
TELEVISION MICROWAVE LINK (TML)
29 APR IMPLEMENTATION START
1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995
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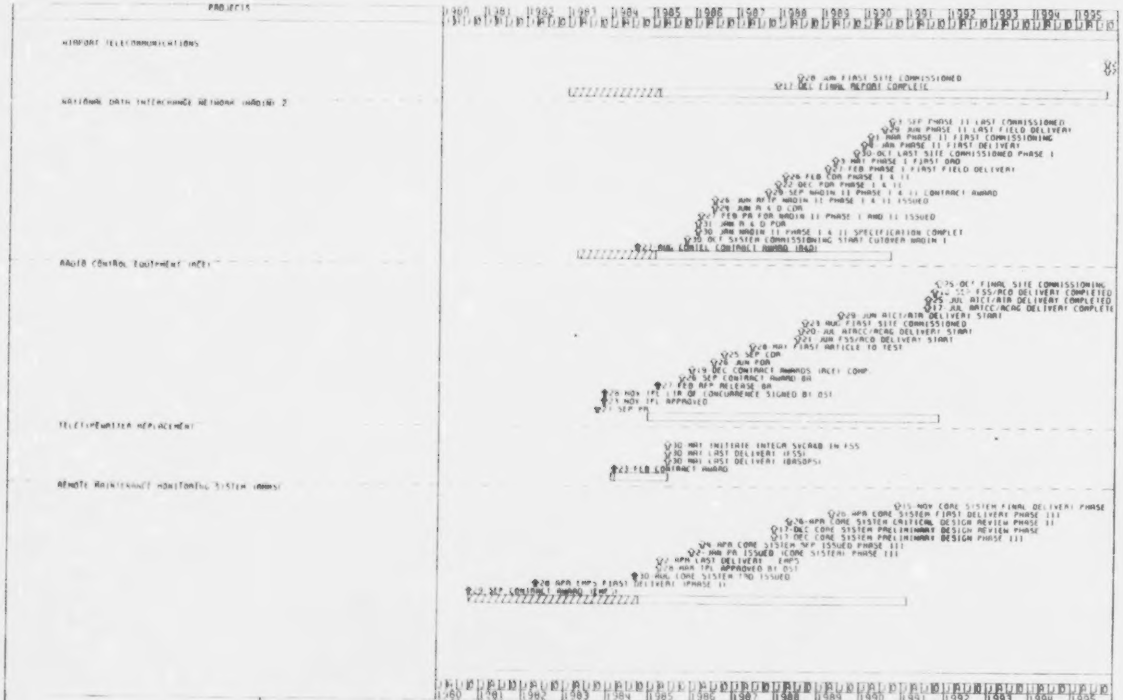
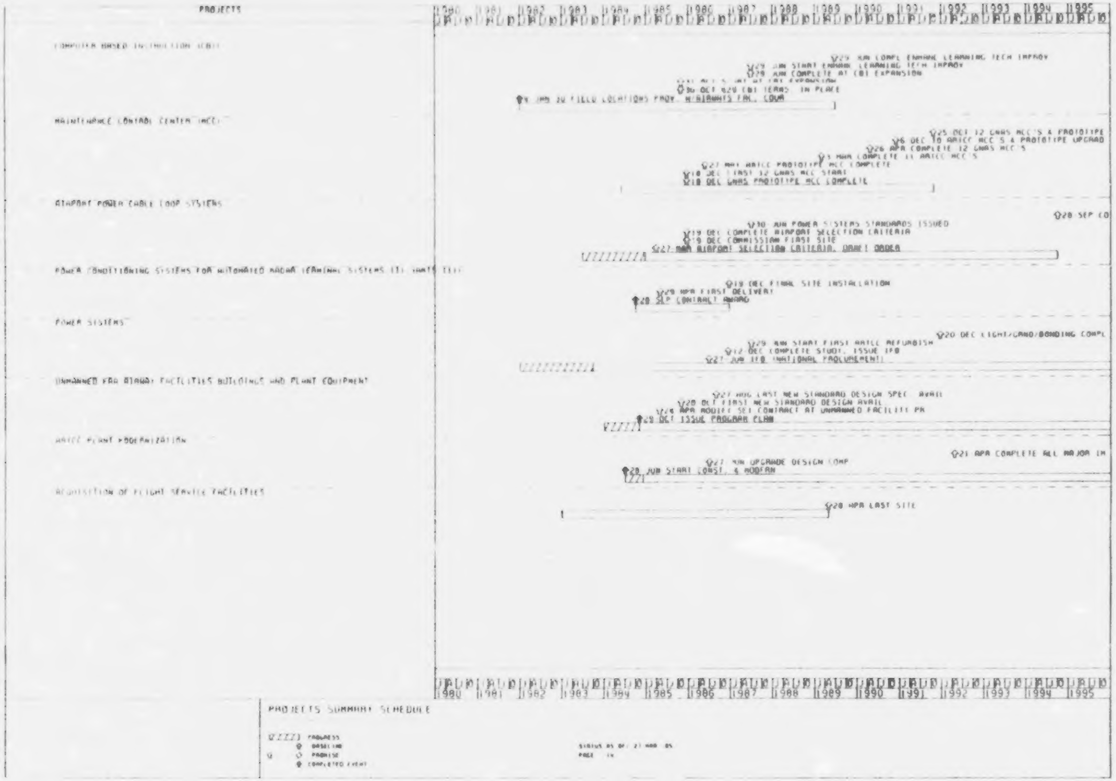


PROJECTS SUMMARY SCHEDULE


PROJECTS
COMPUTER BASED INSTRUCTION (CBI)
MAINTENANCE CONTROL CENTER (MCC)
AIRPORT POWER CABLE LOOP SYSTEMS
POWER CONDITIONING SYSTEMS FOR AUTOMATED RADAR TERMINAL SYSTEMS (ARTS III)
POWER SYSTEMS
UNMANNED FAA AIRWAY FACILITIES BUILDINGS AND PLANT EQUIPMENT
ARTCC PLANT MODERNIZATION
ACQUISITION OF FLIGHT SERVICE FACILITIES
1980 1981 1982 1983 1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995
29 JUN COMPL ENHANC LEARNING TECH IMPROV
29 JUN START ENHANC LEARNING TECH IMPROV
29 JUN COMPLETE AT CBI EXPANSION
30 DEC 620 CBI TERMS. IN PLACE
4 JAN 20 FIELD LOCATIONS PROV. W/AIRWAYS FAC. COUR
25 OCT 12 GNAS MCC'S & PROTOTYPE
6 DEC 10 ARTCC MCC'S & PROTOTYPE UPGRAD
26 APR COMPLETE 12 GNAS MCC'S
1 MAR COMPLETE 11 ARTCC MCC'S
27 MAY ARTCC PROTOTYPE MCC COMPLETE
18 DEC FIRST 12 GNAS MCC START
18 DEC GNAS PROTOTYPE MCC COMPLETE
28 SEP CO
30 JUN POWER SYSTEMS STANDARDS ISSUED
19 DEC COMPLETE AIRPORT SELECTION CRITERIA
19 DEC COMMISSION FIRST SITE
27 MAR AIRPORT SELECTION CRITERIA, DRAFT ORDER
19 DEC FINAL SITE INSTALLATION
29 APR FIRST DELIVERY
28 SEP CONTRACT AWARD
20 DEC LIGHT/GRND/BONDING COMPL
29 JUN START FIRST ARTCC REFURBISH
12 DEC COMPLETE STUDY, ISSUE IFB
27 JUN IFB (NATIONAL PROCUREMENT)
27 AUG LAST NEW STANDARD DESIGN SPEC. AVAIL
28 OCT FIRST NEW STANDARD DESIGN AVAIL
26 APR MODIFY SET CONTRACT AT UNMANNED FACILITY PR
28 OCT ISSUE PROGRAM PLAN
21 APR COMPLETE ALL MAJOR IM
27 JUN UPGRADE DESIGN COMP
28 JUN START CONST. & MODERN
28 APR LAST SITE
PROJECTS SUMMARY SCHEDULE
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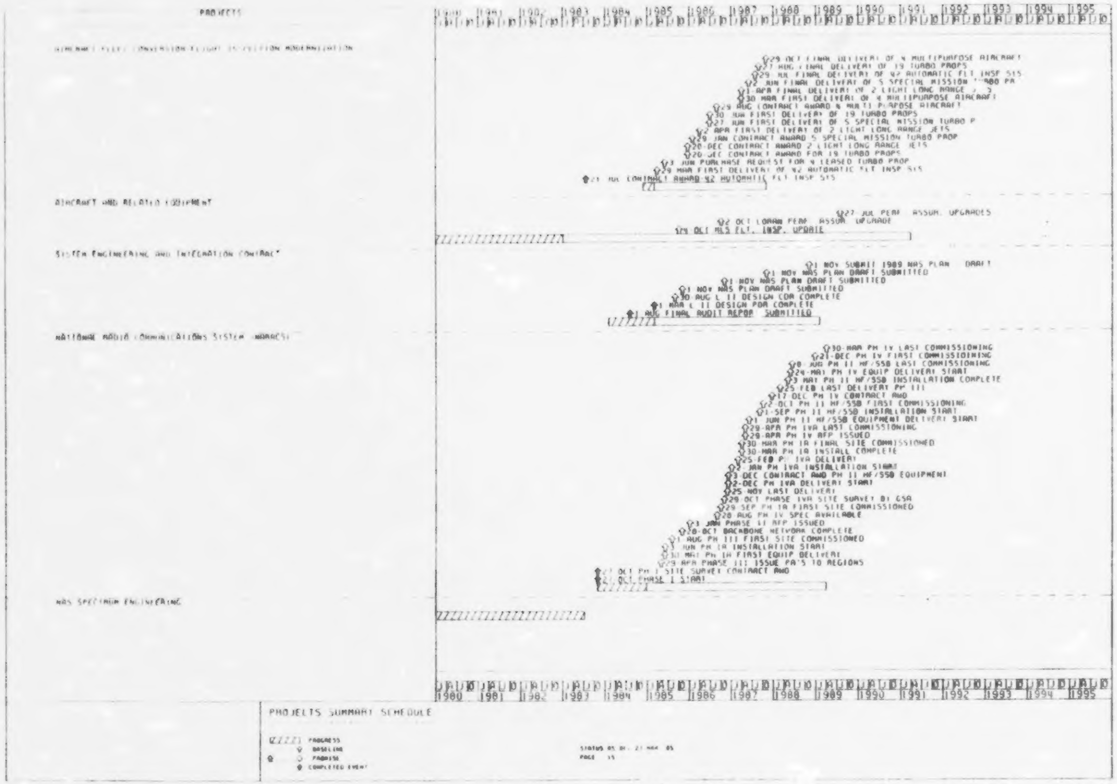

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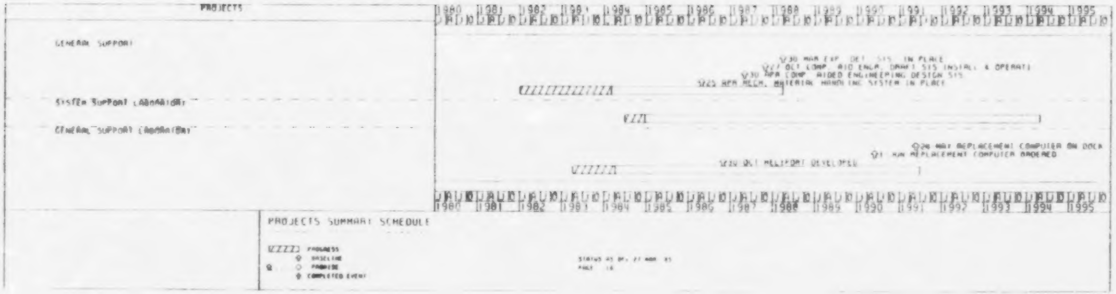

PROJECTS SUMMARY SCHEDULE

SENATOR ANDREWS: Does the schedule show the original and current milestone dates, cost estimates, and schedule slippages?

ANSWER: The schedule shows milestone dates based on the 1985 NAS Plan. Slippages, if any, will be shown compared to that baseline.

The schedule does not show cost estimates. Cost estimates are managed through other systems.

SENATOR ANDREWS: Does the schedule provide for contingencies to minimize cost and/or schedule erosion?

ANSWER: The NAS Plan audit pointed out that "Thirty percent of the NAS Plan project schedules have slipped . . . since the first NAS Plan was published. As a result, a majority of positive schedule slack contained within the individual project schedules at the outset has been eroded for a number of reasons. . ."

SENATOR ANDREWS: Does the schedule plan for program integration and transition?

ANSWER: The present schedule includes a high level overview of integration and transition. As the program progresses, detailed schedules will be developed to help manage this complex activity.

SENATOR ANDREWS: Considering the program changes that have occurred (i.e., changes to original requirements, user needs and project schedule slippages), does FAA have a reporting mechanism within the Master Schedule to periodically identify and reassess changes and establish contingency plans?

ANSWER: Schedule status is required on a monthly basis. The SEI reviews the status of the schedules and reports any problems to the Federal Aviation Administration. The schedule system is designed to alert management to potential problems while there is still time to take mitigating action.

Proposed changes to requirements based on user needs, etc., are subjected to a formal review process which includes analysis of technical, cost, schedule, and benefits impacts prior to acceptance of the change.

NEXT GENERATION RADAR

SENATOR ANDREWS: Development of the Terminal Next Generation Radar (NEXRAD) must be accomplished following, or at best in parallel with, en route NEXRAD. En Route NEXRAD is being developed and procured as a joint program with the Departments of Commerce and Defense. However, Commerce decided to explore alternative use of a commercial radar which is unlikely to meet the aviation needs. FAA's NEXRAD budget was reduced awaiting results of the study by Commerce. This has the effect of causing a lengthy delay to provision of Terminal NEXRAD and its important safety benefits. Because of the important safety benefits associated with the NEXRAD program shouldn't the Administration reconsider and resume development of en route and terminal NEXRAD on an accelerated basis?

ANSWER: The NEXRAD program we are currently pursuing is very important to aviation because of the safety and efficiency benefits that will accrue to the aviation industry and the traveling public. The inclusion of an off-the-shelf Doppler weather radar evaluation should not, by itself, impact the NEXRAD schedule. However, decisions resulting from such an evaluation could adversely impact the program and its benefits to aviation. The FY 1986 dollar reduction should not have more than a few months impact on the schedule, if any.

The research and field experiments needed to specify a suitable terminal Doppler weather radar are ongoing and are adequately funded at this time.

AIRCRAFT

SENATOR ANDREWS: Facilities and equipment language and $13.3 million is requested to allow lease or purchase of three aircraft. How many aircraft were leased or purchased in FY 1984 and 1985? What are the projections for aircraft need beyond FY 1986? Why weren't turboprops purchased during earlier fleet conversion efforts?

ANSWER: No aircraft were bought or leased during FY 1984. The three aircraft requested in FY 1985 were taken out by Congress without prejudice and have been resubmitted in the FY 1986 budget. Final approval was received from the Office of the Secretary in November 1984, and the solicitation for 19 aircraft was issued April 1985. Contract award date is February 1986.

HOST COMPUTER SYSTEM

SENATOR ANDREWS: What adjustments to the FY 1986 request of $60.5 million will be made if slippages occur? Will this fiscal year's $244.4 million be completely obligated at the time of awarding the winner's acquisition contract? If not, what carryover will be available?

ANSWER: The Host Computer System acquisition contract will be awarded in FY 1985. $221.8 million of the $244.4 million FY 1985 funds were budgeted for the Host Computer System acquisition contract, and will be obligated when the contract is awarded. The other $22.6 million is required to support the implementation of the Host Computer System and will also be obligated in FY 1985.

SENATOR ANDREWS: Update the installation schedule outlined on page 305 of last year's Senate Hearing.

ANSWER: The Host Computer System operational readiness date for the Seattle Air Route Traffic Control Center, the first site, is scheduled for October 1986. All 20 Host Computer Systems will be operational by the end of 1987. The high density Air Route Traffic Control Centers at Houston, Denver, and Miami are planned to have operational Host Computer Systems in December 1986, February 1987, and July 1987, respectively.

The Advanced Automation System Design Competition contracts were awarded to IBM and Hughes Aircraft Company in August 1984. These contracts are proceeding on schedule.

ADVANCED AUTOMATION SYSTEM

SENATOR ANDREWS: Elaborate on the requested $12.75 million for Advanced Automation System construction and field site preparation work. What equipments will be procured this fiscal year and next? How much of the current year $17.6 million is obligated to date?

ANSWER: The $12.75 million requested in FY 1986 for construction and field site preparation work provides for FAA in-house costs, support contract efforts, and site construction activities. No equipment procurement other than the Host Computer Systems is planned for FY 1986. Of the $17.6 million planned for construction and site preparation activities in FY 1985, $3.2 million has been obligated for support contracts, and the remaining funds have been allocated to FAA regional organizations for construction contracts.

COMMUNICATIONS FACILITIES

SENATOR ANDREWS: How many communications facilities have been consolidated to date?

ANSWER: The implementation of 32 consolidated communications facilities is in process and will be completed by December 1985.

SENATOR ANDREWS: What number will be consolidated with the $12 million requested?

ANSWER: The $12 million requested will be used for the consolidation of 76 communication facilities.

SENATOR ANDREWS: What is the estimate of cost savings to be realized so far in reduced lease and travel?

ANSWER: After the implementation of the 32 consolidation communication facilities, the estimated cost savings in reduced land lease and travel will be $465,000 annually.

SENATOR ANDREWS: Where in the budget are these savings shown?

ANSWER: The savings from these F&E projects are netted-out in our operations budget.

UPGRADE TRAFFIC MANAGEMENT SYSTEMS

SENATOR ANDREWS: On what will the requested $6.7 million for upgrade traffic management systems be spent: New computer hardware, software, travel, consultants; and will these investments be made primarily at Headquarters Central Flow, or at Air Route Traffic Control Center's (ATRCCs) and terminals? With "limited real-time information", how well is central flow control working now?

ANSWER: The requested $6.7 million to upgrade the Traffic Management System will be spent for additional computer hardware and computer software. The computer hardware will be installed in the ARTCC's and major terminals and facilities. The computer software will be installed and utilized at all locations.

A further breakdown of the $6.7 million is as follows: $2.5 million for hardware ($.2 million for headquarters central flow, $2.3 million for Air Route Traffic Control Center's and Terminals), $3.7 million for computer software for all locations, and $ .5 million for support services to be provided by the FAA Technical Center.

Although Central Flow Control has had only "limited real-time information," the system has performed very well. During the past six months the delays in the air traffic system have decreased. March 1985 had the least number of delays over the past 12 month period. As new enhancements come on-line the accuracy and timeliness of flight data information within the central flow data base should improve.

NEW YORK TERMINAL RADAR APPROACH CONTROL FACILITY

SENATOR ANDREWS: On what is the request based; has FAA undertaken any similar modifications? What other areas of the country are likely to require this type modification investment? Without this investment until FY 1986, what delay problems will be experienced in the New York TRACON in the near term?

ANSWER: Our request is based on the fact that the New York TRACON is currently operating near the maximum hardware/software design limit. The FAA has not undertaken any similar modifications at any other locations. There are no current plans to modify any other sites.

Failure to provide these modifications and software enhancements, which should satisfy operational growth in the New York TRACON, could impact the facility's ability to handle the heavy traffic loads predicted to become a problem in the summer of 1987.

REMOTE MAINTENANCE MONITORING

SENATOR ANDREWS: Over $60 million has been appropriated to-date for Remote Maintenance Monitoring. What specific savings or cost avoidance has resulted? Of the requested $72 million, the justification identified $7.6 million for retrofit of direction finder facilities, what will the balance ($64.4 million) be used for?

ANSWER: The NAS Plan goal is to reduce our technical staff required to maintain the modernized, and expended air traffic control and navigation system by one-third by the year 2000, compared with 1980. A reduction of this magnitude equates to almost 4,000 field maintenance positions. This reduction is to be achieved by a combination of replacing old tube-type equipment with less maintenance intensive equipment, and by implementing remote maintenance monitoring (RMM). The full implementation of RMM permits consolidation and a reduction of the maintenance work force. The fiscal year 1986 budget reflects a savings of over 2,322 field maintenance positions from the fiscal year 1980 base level of 11,602 primarily due to equipment replacement and RMM which are practically inseparable.

The balance ($64.4 million) of the FY 86 budget request will be used as follows:

Core System	17.6
Retrofit of Radars, NAVAIDS & Communications, facilities	18.6
Retrofit of Airport Facilities	28.2
Total	64.4

REPLACEMENT TOWERS

SENATOR ANDREWS: Of the ten locations slated for new towers, how many are FAA-owned towers and how many are leased from GSA or other owners? What savings will result? Will all ten new towers be FAA owned? What is the cost of each? In any instance, is a tower being replaced because of an obstruction or hazard created by the airport authority? What is the level of traffic activity at each location?

ANSWER:

Location	Cost	Total Airport Operations FY 84	Current Ownership
Mobile, AL	$ 4,097,800	98,186	Sponsor
Montgomery, AL	$ 4,169,500	87,084	Sponsor
Scottsdale, AZ	$ 694,300*	154,066	FAA
Los Angeles, CA	$ 8,293,000	543,309	Sponsor
St. Petersburg, FL	$ 4,115,900	177,028	Sponsor
DeKalb-Peachtree, GA	$ 4,113,000	203,714	FAA
Sioux City, IA	$ 3,737,500	61,361	Sponsor
New York (JFK), NY	$ 7,973,300	360,559	Sponsor
Middletown, PA	$ 5,115,000	132,947	FAA
Houston (Intcn'l), TX	$14,819,500	320,956	FAA

*City plans to construct new tower because current site provided by the city to FAA is inadequate due to noise abatement procedures.

Houston tower is being replaced in part due to airport expansion; construction of a new east-west runway and crossing taxiways. The distance from the east end of the new runway to the existing control tower is over 3 miles, which is too far for practical airport traffic control.

All ten facilities will be built to FAA standard design specifications/requirements and all except Scottsdale will be owned by FAA.

There are no cost savings associated with these projects. The justification for replacement of the 10 facilities is based on a combination of operational, administrative, and environmental conditions. These conditions are impacted by the condition, size, and location of these control tower facilities.

INTEGRATED COMMUNICATIONS SWITCHING SYSTEM

SENATOR ANDREWS: How many Integrated Communications Switching Systems (ICSS's) will be installed with the requested $40 million? How many will be purchased? Leased?

ANSWER: Sixty-five Type I and fourteen Type II systems will be installed, and the purchase option for 79 Type I and 14 Type II systems will be exercised. This will bring the total purchased to 133 Type I and 17 Type II systems.

SENATOR ANDREWS: Why does the cost per location rise from $196,000 in FY 1984 to $412,000 in FY 1985? What is the FY 1986 unit cost?

ANSWER: The cost per location in FY 1984 was $196,000, which covered the purchase of a Type 1 system already installed and under lease for a time. In FY 1985, the average unit cost for such a Type 1 is $270,000, which includes installation and purchase of a system which is not first leased.

The overall average unit cost of $412,000 in FY 1985 results from a mix of Type 1 systems (costing $270,000) and larger Type 2 systems (costing $1,404,000).

The FY 1986 unit costs for Type 1 and Type 2 systems will be $283,000 and $1,503,000, respectively. (The marginal increases are a result of contract escalation clauses.)

SENATOR ANDREWS: Why not attempt to complete this work in FY 1986 (only $3 million out year cost)?

ANSWER: The FY 1986 funds were requested to exercise the buy option for all systems installed to that time. The future funds will be needed to purchase systems installed in FY 1987 or later.

SENATOR ANDREWS: Will these ICSS's be compatible with advanced automation sector suites?

ANSWER: The ICSS types of equipment are designed to function in airport traffic control towers and in automated flight service stations. Their design will provide for a compatible interface with the Voice Switching and Control System (VSCS) which will be the Air Route Traffic Control Center (ARTCC) communication systems directly associated with the advanced automation sector suites.

REPLACE BRIGHT RADAR TOWER EQUIPMENT

SENATOR ANDREWS: $44.3 million is requested to replaced BRITE IV with digital scan converters systems. How was the decision reached to conclude replacements in FY 1986? How were the 164 towers selected?

ANSWER: Fiscal year 1986 is the final year of a three year program to replace obsolete BRITE equipment, plus establish additional BRITE systems at new qualified locations. No special criteria were used for the BRITE IV sites. Replacement of BRITE IV equipment at each of the 164 locations was on a one for one basis.

APPROACH LIGHTING IMPROVEMENTS

SENATOR ANDREWS: Why is it necessary to increase funding for approach lighting improvements by 54 percent over FY 1985? How many accidents occur annually involving lighting structures? How were the 66 locations chosen?

ANSWER: An increase in funding is required as 37 more locations (66 total) than in FY 85 are scheduled for lighting improvements in FY 86. The improvements are required to provide frangibility to the structures; a national approach lighting system of one standard, (a medium intensity approach lighting system with runway alignment indicator lights (MALSR) with the exception of the approach light system with sequence flashing lights (ALSF-2) to support Category II and III operations); minimization of maintenance costs; and a reduction of energy consumption.

The accident statistics are acquired and accumulated by the National Transportation Safety Board (NTSB). We have requested NTSB to provide this data to us and will forward it upon receipt.

The 66 locations chosen for approach lighting improvements were based on the highest cost/benefit ratio.

AUTOMATED WEATHER OBSERVING SYSTEM

SENATOR ANDREWS: No funding for Automated Weather Observing System is included this fiscal year. Why, then implement AWOS at 126 locations without doing further testing? Have potential AWOS users been receptive to this project? What amount of use will be made of systems installed at the 126 locations?

ANSWER: The funding for the Automated Weather Observing System

(AWOS) in the flight service facilities activity was removed from the fiscal year 1986 request as a consequence of the decision to carry out the privatization study. Funding for 126 AWOS units in the amount of $27.2 million for installation at non-towered airports is included in this budget in the air navigation facilities activity.

Further testing of the Automated Weather Observing System (AWOS), except for future sensor enhancement testing, is not required. The demonstration tests and ceiling and visibility tests have shown that AWOS will meet identified requirements.

The pilots who used AWOS during the demonstration were receptive to the project and favorable to the system concept and performance.

Pilots are expected to make extensive use of the weather information provided by AWOS before, during and after each flight to or from these locations. Also, we expect that the general public will use AWOS at these locations, as they did at many of the demonstration sites, through telephone access to the system.

LOW LEVEL WIND SHEAR ENHANCEMENTS

SENATOR ANDREWS: Will the $20 million requested for low level wind shear enhancements provide for additional sensors of the same type currently in use? How much funding is for computer modifications and how much for sensors? Are there plans to install sensors at airports beyond the 110 currently equipped?

ANSWER: The sensors will be of the same type as those currently in use. Funding for the computer modifications is approximately one-half the required funding for sensors. There are no plans to install low level wind shear alert systems at airports beyond the 110 currently equipped.

RUNWAY END IDENTIFICATION LIGHTS

SENATOR ANDREWS: Why does the same number of runway end identification lights installations cost almost 40 percent more in FY 1986 than 1985?

ANSWERS: The increased cost is due to the requirement for longer cable runs at some of the FY 1986 locations; higher regional site work costs for construction, including costs of site survey work, grading and trenching; increased cost of new equipment which will include solid-state control components and remote maintenance monitoring capability.

NATIONAL RADIO COMMUNICATIONS SYSTEM (NARACS)

SENATOR ANDREWS: How much will (or has) it cost for each of the four major networks?

ANSWER: The estimated total cost of the four major networks follows:

Phase I (Backbone Network)	$1.8 Million
Phase II (East/West Command Network)	$15.8 Million
Phase III (Regional Networks)	$45.7 Million
Phase IV (Backbone Network Enhancements)	$11.4 Million

The following are sub phases of the NARACS:

Phases Ia (AUTODIN) and Phase IVa (Secure Telephone)	$6.0 Million

SENATOR ANDREWS: Is the "backbone" network the only one currently installed?

ANSWER: The "backbone" network is the only major network installed and in operation.

SENATOR ANDREWS: Why is $7 million needed in FY 1986 for upgrading?

ANSWER: The $7 million is needed in FY 1986 to enhance the "backbone" network to allow each backbone location to communicate with two distant stations simultaneously; i.e., transmit and receive simultaneously. The existing backbone system can only transmit or receive at any point in time.

SENATOR ANDREWS: Why are funds requested to replace regional network high frequency/single sideboard (HF/SSB) equipment, if that is the type used for the backbone network?

ANSWER: Funds are requested to replace regional network high frequency/single sideband (HF/SSB) because the existing equipment is obsolete (vacuum tube design and insufficient power) and difficult to logistically support. The HF/SSB equipment used in the backbone network has 1,000 watts power (NARACS minimum requirement) output and state-of-the art design.

SENATOR ANDREWS: Are the four networks used regularly once they are established, or are they idle until needed to provide backup communications capability?

ANSWER: Once the four networks are established, weekly tests will be scheduled to exercise all equipment in an effort to guarantee operability when required for emergencies. Additionally, some portions of the network (regional networks) will be used in day-to-day operational activities.

SENATOR ANDREWS: Once $80.7 million is spent on NARACS, what guarantee is there that communications could be maintained after a "major disruption"?

ANSWER: Once NARACS is implemented we can "guarantee" a medium to high degree of technical certainty that communications could be maintained after a "major disruption." This translates to a 95 to 100 percent probability that the communications would be maintained after a high altitude nuclear burst which is considered to be the most serious disruption.

SENATOR ANDREWS: The Administration's FY 1986 request includes approximately $70 million for procurement and consolidation communications facilities. Twenty million dollars is to be spent for a system designed largely to meet military needs called the National Radio Communication System (NARACS). Is Department of Defense (DOD) funding the portion of this system which exceeds civil needs?

ANSWER: The Department of Defense (DOD) is not funding any portion of the four major network phases. The twenty million dollars to be spent for the National Radio Communications System (NARACS) is to meet national emergency needs where FAA plays a vital role. The NARACS provides the FAA with minimum essential command and control communications during emergencies. The NARACS will interface and provide interoperability with the military but will be operated and controlled by the FAA.

The only portion of the NARACS that exceeds civil needs is the cryptographic equipment which permits secure data and telephone communications with the military. The DOD funds this portion of the system.

IMPROVED UNMANNED FACILITIES

SENATOR ANDREWS: What necessitates a more than three fold increase for improvement to unmanned airway facilities buildings in FY 1986?

ANSWER: The original submission to Congress for FY 1985 for the Unmanned Airway Facilities Buildings was $28,734,600. This level was reduced by $19,402,500 to $9,332,100 to meet the appropriations level. The $32,733,700 level for FY 1986 restores part of the funding deferred in FY 1985.

ENGINEERING DESIGN SYSTEM

SENATOR ANDREWS: $10.8 million is requested for regional computer systems for engineering design. How was the estimate derived? Why cannot the Aviation Safety Analysis System (ASAS) plans or existing computer capability be used for this effort? Does this cost include the necessary research into facility engineering history and input of maintenance data? Why are all the regions being computerized, instead of undertaking this effort at a central location, thus ensuring consistency?

ANSWER: The estimate was derived from the FAA's Comprehensive Graphics Plan, completed in May 1983. This plan contains 14 project areas defined and costed out to meet FAA requirements based upon industry equipment. The plan calls for the purchase of computer-aided design (CAD) systems for each of the FAA Regions and for the Washington headquarters. Cost for hardware and specialized software was estimated at $10,800,000. If the plan is carried out, the estimated cost savings to the agency is $108 million by the year 2000. Industry has recognized computer-aided design as a very cost-effective means for increasing the productivity and efficiency of an engineering staff. CAD equipment sales to industry was $1.5 billion in 1982 and is forecast to exceed $7.0 billion by 1987.

Various computer installations and systems are designed to perform specialized functions. There are FAA computer systems that do accounting, inventories, word processing, and safety reporting; and although they can be made to do some of each through software, they will not do a good job. The ASAS system resides in a Management Information Systems computer which cannot support CAD applications. There is no existing CAD computer system currently in the agency or another computer system capable of taking on the CAD system workload.

The cost includes digitizing some of the 400,000 existing FAA engineering drawings. No maintenance data will reside on the CAD equipment.

All field Facilities and Equipment (F&E) installation engineering is accomplished at the Regional Office level. Therefore, this is where all FAA standard drawings are site-adapted; and all field drawings and designs are developed and produced. Because field design and installation engineers are located in the Regional Office, this is where the CAD system is needed--and can be used on a day-to-day basis by engineers. The planned national procurement of CAD equipment will ensure a high degree of commonality of equipment and capability throughout the FAA.

MAINTENANCE CONTROL CENTERS

SENATOR ANDREWS: Doesn't the $11 million requirement for maintenance control centers offset the savings to be realized by remote maintenance monitoring? Will these facilities house the engineering design system discussed above? How much will each center cost to build and operate annually? Why can't existing FAA facilities be used for this maintenance control purpose?

ANSWER: No. The savings resulting from remote maintenance monitoring will far exceed the $11 million for the maintenance control centers. The savings, for example, on the second generation very high frequency omnidirectional range station (VORTAC) program alone will exceed $22 million. The maintenance control center (MCC) is not a physical plant but a point of electronic and environmental facility/equipment operating status information. At those locations, systems engineering type personnel will provide monitor, command and control functions with respect to the maintenance of facilities. We believe that this alternative will be far less costly than having monitor stations at 80 some sector office. This MCC project is not related to the computed-aided drafting design system referred to earlier. The $11 million is the estimated completed installation cost for the MCC's. The MCC is intended to be housed in existing facilities and will not require a new building.

JOINT USE AIRPORTS

SENATOR ANDREWS: A DOD/DOT study dated March 8, 1984, concluded that joint use should be permitted to the maximum extent compatible with national defense. DOD has indicated it is ready and willing to evaluate proposals by local sponsors on a case-by-case basis. Does FAA intend to actively pursue agreements with DOD on joint civil use of military airports?

ANSWER: The Federal Aviation Administration (FAA) will play an active role in advancing any new proposals that are acceptable to the Department of Defense and beneficial to civil aviation. FAA is a staunch advocate of joint use and is convinced that it could help to relieve airport congestion and reduce the need for costly airport development.

SENATOR ANDREWS: How many such agreements are currently in effect?

ANSWER: There are currently 24 joint use agreements in effect at domestic military airfields.

SENATOR ANDREWS: How many more will be implemented in this fiscal year and next?

ANSWER: The Department of Defense has indicated willingness to consider joint use at two locations, Chanute AFB in Rantoul, Illinois, and Memphis Naval Air Station in Millington, Tennessee. The Federal Aviation Administration is not aware of any applications for joint use at this time. The first step must be taken by local public agencies that are willing to act as sponsors for joint use agreements. The plan (Potential Joint Civil and Military Use of Military Airfields) submitted to Congress describes the application procedures.

RESEARCH, ENGINEERING, AND DEVELOPMENT

SENATOR ANDREWS: After three years of substantial growth in Research, Engineering and Development ($103,094,000 in 1983 to $278,260,000 in FY 1985), the FAA is now proposing a cut in research of $82,760,000. Is this large decrease due to completing major portions of the research in support of the National Airspace Systems (NAS) Plan?

ANSWER: The decreased FY 1986 request of $196.5 million from the appropriated amount of $265.0 million in FY 1985 is generally consistent with the Research, Engineering and Development funding profile in the Airport and Airway Improvement Act of 1982. The FY 1986 request reflects the near completion of NAS Plan associated research, engineering and development efforts such as the separation assurance program, near term automation enhancements and the Host computer program.

SENATOR ANDREWS: The budget justification indicated 99 survivable accidents resulted in 1,294 fatalities over a 20-year period (1959-1979). This alone certainly indicates a need for crashworthy design features. Why is funding for aircraft safety reduced again this year for a cut of nearly 25 percent from FY 1984 levels?

ANSWER: We are actively pursuing research and development to improve occupant survivability in an airplane crash environment. The aircraft safety program showed an increase in FY 1984 and FY 1985 above normal sustaining engineering levels due to the funding required for the Controlled Impact Demonstration and subsequent data reduction and analysis. We have not compromised our research program.

Over the past 5 years, there has been a decrease in fatalities due to improvements in aircraft design and air traffic operating procedures.

SENATOR ANDREWS: Does the Provincetown-Boston (PBA) crash indicate any possible weakness in the FAA aircraft certification procedures?

ANSWER: No. The inspections required by the telegraphic Airworthiness Directive T85-01-51, applicable to owners and operators of Embraer Models EMB-110P1 and EMB-110P2 Airplanes did not reveal any evidence that certification procedures were inadequate.

Since then the manufacturer has conducted ultimate load tests, deflection tests, and frequency response tests comparing an undamaged empennage and one with damage up to and including a three inch crack in the bulkhead supporting the stabilizer; and with all ten rivets removed from the upper right "U" channel (one of four feeding stabilizer loads into the monocoque structure) which was the suspect area of the PBA aircraft. The structure supported ultimate load with the above damage; and changes in deflection and frequency were negligible between the undamaged and damaged test empennages.

We are continuing efforts with the National Transportation Safety Board, Brazilian Civil aviation authorities, and the manufacturer to determine the cause of the PBA accident.

SENATOR ANDREWS: One aspect of your aircraft safety research attracted wide attention, the "Controlled Impact Demonstration" in which a Boeing 720 was intentionally crashed to assess the value of antimisting fuel as a way of controlling fires in aircraft crashes. Do you have any tentative findings on the potential for antimisting fuels and the other crashworthiness tests and experiments involved?

ANSWER: To summarize the antimisting fuel performance and behavior of the CID, the impact scenario demonstrated that there are conditions where adding an antimisting characteristic to jet fuel is not sufficient to prevent a post-crash fire. An example of this is the CID, where there was the destruction of an engine and the rupture of fuel lines on the engine pylon which produced an intense ignition source near the point of fuel release. While the antimisting characteristic of the fuel would have prevented forward propagation of the fire had the fire source been farther aft, it did provide limited, although still significant, protection. The resultant fireball diminished after a period of 9 seconds. The fuselage sustained relatively little damage during the duration of the fireball. The reduced intensity of the fireball is attributed to the antimisting characteristics of the fuel.

In terms of crashworthiness, the impact forces were all within the envelope of human tolerance. Seat and restraint systems remained in place with the exception of one row that came loose where the keel beam, the aircraft main structural member, was damaged severely by one of the wing cutters. The energy absorbing seats showed little "stroking," indicating that these seats were capable of absorbing higher impact loads. Despite the damage inflicted by the wing cutters, the fuselage remained essentially intact and provided a habitable space for the occupants. We have determined that this was an impact-survivable accident. Analysis of the data is continuing.

Even though we did not expect a major fire to occur, the aircraft contained some fire safety experiments. We installed seat cushion fire blocking layers in alternative rows of seats. In those areas not totally consumed by fire, those seats with the blocking layers showed greater resistance to heat and burning. Also, structural fire damage was less severe in the areas above and adjacent to the fire-blocked seats.

Advanced modified epoxy resin windows, which delay fuselage burnthrough, were installed on the CID aircraft in alternate windows in the cabin area behind the wing box. Since in the CID, fire penetration was primarily through the floor and due to the length and intensity of the fire, we are unable to draw any conclusions on the performance of the advanced panes.

The rapid build-up of smoke in the cabin, combined with the location of the onboard cameras high in the cabin, prevented evaluation of the effectiveness of the installed low-level, self-contained, emergency lights for floor proximity escape path marking.

SENATOR ANDREWS: Why have full time permanent positions in Research, Engineering and Development remained unchanged, 845, in spite of a 25 percent cut in funding?

ANSWER: Our staffing requirements for full time permanent positions remain unchanged since FY 1983, the first year of our current 5-year authorization. During this period our budgets increased from $121.3 million in FY 1983, peaked to $265 million in FY 1985 and decreased to $196.5 million in FY 1986. Most of the budget increases over these years are attributed to the large contractual efforts associated with the Host and Advanced Automation System design competition efforts and do not significantly impact our requirement for full time permanent positions.

SENATOR ANDREWS: Why is full time equivalent employment projected to increase 31 work years while permanent positions are unchanged and funding is cut 25 percent?

ANSWER: The positions reflected in the Research, Engineering and Development budget, 845, are strictly full time permanent positions. The full time equivalent work years account for full time permanent, full time temporary, part time and intermittent employees. The 25 percent decline in program request is essentially consistent with our overall research and development plans. Most of the reduction is attributed to partial or near completion of contracts under the Advanced Computers Activity. In FY 1986, we will be entering a phase of our work which will temporarily require a higher level of support in such areas as computer operators, simulator operators and testing.

AVIATION WEATHER

SENATOR ANDREWS: The budget request for aviation weather is reduced over 40 percent from last year. Research for FY 1986 appears to be limited to developing the Central Weather Processor and Doppler weather radar development (NEXRAD). No funding is requested for Joint Airport Weather Studies (JAWS) program in FY 1986 which studied thunderstorms and resultant wind shear. These studies will apparently be completed in FY 1985. Have the results of these studies indicated any need for modifications to the Low Level Wind Shear Alert System (LLWAS)?

ANSWER: The Joint Airport Weather Studies (JAWS) program will be completed in 1985. The results of this program are already being applied to many areas including the Low Level Wind Shear Alert System. The National Center for Atmospheric Research scientists who are familiar with the JAWS data are working with FAA engineers to help improve the Low Level Wind Shear Alert System.

Preliminary assessment of the Joint Airport Weather Study data has indicated that the performance of the Low Level Wind Shear Alert System might be improved if alternative data processing algorithms coupled with a higher density of remote sensors were integrated into the basic system. The Low Level Wind Shear Alert System was designed primarily to detect thunderstorm generated "gust fronts" and rapid frontal movement; it was intended as an interim measure and was never considered a total solution to the wind shear detection problem. Two systems, at New Orleans' Moisant Airport and Denver's Stapleton Airport, have been modified through the doubling of remote sensors and modification of the centerfield wind sensor measurements processing. We are presently evaluating these changes to determine if, (1) the modified system can detect downburst/microburst activity, and (2) if the false alarm rate can be decreased. The National Center for Atmospheric Research scientists are also investigating alternative display techniques and data processing algorithms. In conjunction with improving the wind shear display techniques, they are also investigating alternative methods for relaying wind shear alert information to the pilot. They have also developed simulation models to improve sensor siting criteria. Evaluation of the data acquired from both of the enhanced systems will be used to formulate plans for further modification of the standard system.

AVIATION MEDICINE

SENATOR ANDREWS: What steps has FAA taken in response to page 31 of Senate Report 98-561 which requires that funds be made available for data gathering on substance abuse?

ANSWER: The funding level described on page 31 of Senate Report 98-561 for the Research Engineering & Development Medical Activity was reduced by $1 million when our appropriation bill was reported out of joint committee. FAA is initiating a project, funded under the operations appropriation which is targeted at gathering data on substance abuse within the Agency.

SENATOR ANDREWS: Aviation Medicine would receive the smallest reduction in funding of any research area. Are there particular concerns in this area that have led you to cut it such a small amount?

ANSWER: There is a strong awareness that more than 85% of aviation accidents are attributable to human error. Changing characteristics of the airman population, introduction of new air carriers, equipment and procedures, and modernization of the entire air traffic control function will require continuing human factors research to ensure the highest level of civil aviation safety. Dramatic changes in operation of the National Airspace System will occur in the next 20 years. Human performance, personnel selection and training, medical standards, equipment man-rating, and other factors will all receive attention in the Aeromedical Research program in order to support system safety in this transition period.

SENATOR ANDREWS: Wildlife and escaped domestic animals can indeed pose hazards at airports but what new research do you have in mind to develop procedures to control problem species?

ANSWER: This project will initially review the contemporary literature and survey information sources to establish potential countermeasures available to control problem species. The FAA will then decide if specific types of empirical research or demonstration projects are warranted to validate the effectiveness of these control concepts.

SENATOR ANDREWS: Is this a new problem or have new approaches been developed to give greater promise to research efforts?

ANSWER: No, this is not a new problem. To date, no revolutionary approaches to prevent such incidents have been identified, however, the accident/incident data on animal hazards is thought to be somewhat inaccurate; thus, ways of getting more comprehensive information will be one priority of this effort.

HANDICAPPED ACCESSIBILITY

SENATOR ANDREWS: The budget requests $173,000 for the care of sick and handicapped persons. This research apparently will focus on "evacuation tests involving handicapped support devices, particularly wheelchairs." Will this information be used to help the Department draft rules governing handicapped access to airline flights?

ANSWER: Medical research aimed at the "care of sick and handicapped persons" is primarily intended to assess the magnitude of problems experienced by air carriers in this area. An evaluation will be performed to determine the likelihood of various medical conditions resulting in emergencies related to air carrier flights. The Department is now considering what revisions, if any, should be made to existing regulations (14 CFR Part 382) concerning nondiscrimination on the grounds of being handicapped. FAA research is not specifically aimed at providing information concerning regulatory changes to Part 382, though it may provide information that is useful in that context. We also expect to develop advisory guidance to air carriers on optimum seating positions for handicapped persons in the event that a cabin evacuation might be required. This material is also needed to fulfill a void in our Cabin Safety Workshops. The advisory guidance will be fully consistent with the rights of handicapped persons who travel by air, and will be fully coordinated within the Department to ensure its consistency with Part 382 and ongoing regulatory efforts in this area.

SENATOR ANDREWS: Is the FAA drafting the rules for handicapped access to airline flights or is the Office of the Secretary (OST) doing it?

ANSWER: The Office of the Secretary is doing it.

SENATOR ANDREWS: The Justice Department is asking for a rehearing in this case (No. 83-105-S). Is FAA or the Department taking a position? Will the FAA proceed with the research in any event?

ANSWER: The Department of Justice is representing the Department of Transportation on this issue. Since the research on evacuation of persons is not being conducted specifically for the purpose of drafting regulations, we anticipate that the research will continue in any event.

SENATOR ANDREWS: What sort of evacuation tests involving wheelchairs do you have planned since on most flights, handicapped individuals cannot use their wheelchairs for boarding, much less evacuation?

ANSWER: Certain types of wheelchairs are compatible with air carrier seats. These devices have folding undercarriages which permit them to be fastened to the aircraft seat. One of our interests is in determining to what degree placement of these devices on aisles or middle seats would impede egress of all passengers in an evacuation. Such information would be useful guidance to air carriers in planning seating for handicapped passengers.

SENATOR ANDREWS: I understand the Boeing 767 is accessible to the handicapped, although one must use the airplane's wheelchair. Are there any other planes that are wheelchair accessible?

ANSWER: Yes, most large jet powered air carrier aircraft are accessible to certain specially designed wheelchairs. These wheelchairs are sufficiently narrow to traverse typical aisles and can also be fastened to air carrier seats.

SENATOR ANDREWS: Aircrew and passenger protection is budgeted for FY 1986 at $2,018,000 up from $1,894,000 in FY 1985, one of the few research areas where added funding is requested. Would you provide substantiation to support your research allocation, including any statistics accumulated regarding deaths and injuries due to inadequate protection.

ANSWER: The Federal Aviation Administration has planned two major rulemaking actions dealing with aircraft seats. These actions will require an increased level of research in the area of testing seat/restraint systems. The agency will be required to develop and document new test methods and criteria for manufacturers to follow in certifying their products.

Few statistics are available regarding the numbers and types of deaths and injuries caused by inadequate passenger protection. The most recent review is a special study issued by the National Transportation Safety Board (NTSB) in September 1981 on cabin safety in large transport aircraft. A copy of this study is attached. Among the Safety Board's findings included statistics that seat/restraint systems failed 84.8 percent and overhead bins failed 77.8 percent in the accidents/incidents examiner in the study.

(CLERK'S NOTE: The Special Study on Cabin Safety in Large Transport Aircraft, NTSB-AAS-81-2, Sept. 9, 1981, is on file in the Subcommittee office.)

AVIATION MEDICINE

SENATOR ANDREWS: The budget requests $550,000 for toxicology. The basis for this work is the need "to perform toxicology/pathology services in connection with aircraft accidents." While there is certainly a need to perform such analysis, this appears to be excessive, even including post-mortem analyses for NTSB. How many such services do you expect to perform in FY 1985? FY 1986?

ANSWER: Of the $550,000 requested under the research task area entitled "Toxicology," only $215,500 supports the need "to perform toxicology/pathology services in connection with aircraft accidents." These services basically consist of toxicologic studies performed on tissue specimens from victims of fatal accidents, and are provided in support of the FAA and NTSB mandate to investigate aircraft accidents. The remainder of the $550,000 supports other research tasks in the areas of pesticide and other toxicant effects on aerial applicator health and performance and in defining health hazards of radiation exposure in aviation. Over the past several years, the Civil Aeromedical Institute has performed toxicologic studies on about 400 specimens per year. This will probably remain approximately the same in FY 1985 and FY 1986.

SENATOR ANDREWS: Does NTSB reimburse FAA for work you do for them? If so, how much does the FAA expect from NTSB in FY 1985? How much will the research cost?

ANSWER: The NTSB does not reimburse the FAA for work done for them. The FAA supports the NTSB mission of accident investigation in accordance with the existing interagency agreement. In the area of the aeromedical investigation of accidents, there is no reimbursement. Most of the FAA effort in the aeromedical investigation of accidents also supports FAA needs in its accident investigation mission. Approximately $363,400 of research funding will be spent on the aeromedical investigation of aircraft accidents in FY 1985.

SENATOR ANDREWS: The budget proposes $534,000 to refine the "Airmen Medical Certification Program" and "determine the relationships between observable physical/physiological parameters and airmen performance." Among other things, the budget proposes "development of relevant color-vision tests." Aren't adequate color-vision tests currently available? Why is further refinement needed?

ANSWER: Today's procedure is that applicants holding a medical certificate bearing a color vision limitation (because of inadequate performance on available color vision tests) may request re-evaluation. This involves demonstration of the ability to successfully perform cockpit color vision tasks appropriate to the certificate applied for. Advances in electronics have resulted in increased use of color in new cockpit displays, e.g., cathode ray tube and liquid crystal displays for color weather radar, flight, and maintenance information. Standardized test protocols are needed to adequately measure an individual's ability to meet color vision requirements in his particular aircraft.

SENATOR ANDREWS: Another part of this program would study the effects of therapeutic drugs. Aren't the effects of such drugs studied by the Food and Drug Administration (FDA)?

ANSWER: Drug effects are studied by the Food and Drug Administration (FDA) from the standpoint of dosage required for optimum therapeutic effect, overall toxicity, etc. The FDA does not study the effect of therapeutic drugs on pilot performance. This research is applied to the support of the airman medical certification program and the special issuance of airman medical certification in the presence of disease controlled by therapeutic drugs. The aviation environment is unique in that relative hypoxia, a performance detractor, is usually present.

SENATOR ANDREWS: Why is it necessary for the FAA to study the use of such drugs?

ANSWER: It is necessary for the FAA to study the use of therapeutic drugs to support airman medical certification. The effect of drugs on pilot performance in the aviation environment should be known before an airman taking the drug can be safely certified medically.

SENATOR ANDREWS: Does the FAA now prohibit aircrews from using drugs which may impair performance. For example a drug that causes drowiness?

ANSWER: Federal Aviation Regulations (FAR) prohibit aircrews from using drugs which may impair performance. Part 91.11 of the FARs, entitled "Liquor and Drugs," states that no person may act as a crewmember of a civil aircraft within 8 hours after the consumption of any alcoholic beverage; while under the influence of alcohol; or while using any drug that affects his faculties in any way contrary to safety.

SENATOR ANDREWS: Why does the FAA need to study the effects of pesticide exposure on aerial applicator personnel? Aren't the effects of such exposure studied by other agencies?

ANSWER: Over the past several years, roughly 1 in 10 general aviation accidents has been an aerial applicator pilot. The FAA is interested in the chronic effects of pesticide exposure on pilot performance. Other agencies study the acute effects of pesticide exposure on the general population, but not on the pilot in the aviation environment.

SENATOR ANDREWS: For FY 1986, $619,000 is requested for general aviation passenger seat concepts. In FY 1985, air carrier passenger seats were evaluated. Is a new rulemaking contemplated for general aviation passenger seats?

ANSWER: Proposed changes to FAR Part 23, dealing with seat strength, are presently being prepared.

SENATOR ANDREWS: Why do general aviation passenger seats require so much additional research over and above passenger seat research for air carriers.

ANSWER: General aviation seats and attachment fittings are typically quite different structurally from air carrier passenger seats. These aircraft are usually light and do not offer the force attenuating characteristics found in the structures of large air carrier-type aircraft. Consequently, crash forces are frequently transmitted more directly to occupants of general aviation aircraft than air carrier aircraft. This highlights the need for specially designed research for general aviation seats. A prime area of focus will be on energy-attenuating methods. There is a greater diversity among the types of aircraft and in the environments in which they are used.

SENATOR ANDREWS: Funding for research to develop better ways to select and use air traffic controllers is requested at a level of $890,000 in FY 1986. In FY 1985, $1,698,000 was requested to develop applicant screening tests. These tests were to be operational in FY 1986. Will the screening tests described last year be available for FY 1986?

ANSWER: The $1,698,000 in FY 1985 was for a considerable number of research activities in the category of Personnel Performance and Efficiency. These included development of selection tests plus other activities such as proficiency measures, to measure performance during training and on the job, a tracking system to record each person's performance on these measures during his career, studies to demonstrate the relation of these measuring devices to success on the job, and development of a job task/function tracking system to use in anticipating the impact of the changing National Airspace System on the personnel subsystem. Yes, the screening tests described last year will be available for FY 1986; accomplishment of this cluster of tasks, Personnel Performance and Efficiency, is a continuing job of modifying existing tests and developing new ones as operational requirements change, tracking personnel performances as persons enter and leave the work force.

SENATOR ANDREWS: Why is this funding requested when $1,516,200 was provided last year for air traffic control performance and efficency?

ANSWER: The NAS is dynamic, going through changes such as more use of solid-state circuitry and increased automation in the new equipment. These changes have a considerable impact on the personnel system and the tools used for personnel selection, training, and workforce utilization.

SENATOR ANDREWS: As the air traffic controller staff level is brought back to normal, how important is continued research into reducing initial trainee failures?

ANSWER: As the number of applicants brought into the workforce declines, the amount of savings to be realized through changes in selection and training will decline. When changes are proposed, cost benefit studies are made to determine whether proposed changes are justified. Procedures for quality control of the performance of trained personnel may increase when new equipment is being introduced and personnel are learning the new systems.

SENATOR ANDREWS: The justification requests funds for "development of a methodology for identifying needed personnel system changes due to automating the NAS." Given the preliminary nature of the NAS, and the fact that personnel levels are predicted to decline, presumably limiting new hires for air traffic control, what benefits will this research provide?

ANSWER: This research is to support the concept of concurrency, having an ATC workforce that can operate and maintain new hardware and software as it is introduced into the existing air traffic control system. Today's workforce has been selected and trained to operate today's NAS. Each change made in the hardware and software will be a challenge to that workforce. A workforce that is not prepared for changes will be prone to make errors. The purpose of this research is to facilitate a smooth transmission as old hardware and software is phased out and new systems become operational.

SENATOR ANDREWS: "Further work is indicated to determine methods for improving judgment training." Please provide more information on the Canadian work cited. What methods are being considered to provide "enhanced decisionmaking or judgment skills (which) can be expected to lead to a reduction in ...accidents traceable to poor judgment"?

ANSWER: The Canadian work cited refers to several joint research projects that have been undertaken recently. The first was their civilian air cadet study in which private pilot license applicants, who had received special FAA designed prototype judgment training materials, made 40% fewer improper decisions on comprehensive flight tests than their contemporaries, who had received only the standard flight training curriculum. In another study, a Canadian college examined private pilots who were asked to study these manuals as part of a college credit self-study course. Their decisionmaking skills were flight checked before and after the course. The Canadian researchers concluded that a 9% overall improvement in judgment skills resulted from this course. A third major study is still underway at a Canadian college that trains professional pilots. There, researchers are finding that decisionmaking skills of second-year students, who have received the prototype judgment training materials, are statistically identical to the more experienced, third-year upperclassmen who have not been exposed to these innovative concepts.

The behavior modification methods in this course were designed to improve decisionmaking by exposing students to a series of simulated-situation exercises designed to acquaint the student with risks associated with certain aviation activities. The training will reveal his or her attitude profile and explain factors which affect decisionmaking. These factors include physiological and psychological stressors, such as stress and fatigue. An assumption is that pilots who are aware of these hazards and trained to cope with them will be involved in fewer accidents.

AIRCRAFT SAFETY

SENATOR ANDREWS: The budget proposes $2,213,000 for FY 1986 for propulsion studies. This figure is more than twice what was provided in FY 1985. Why is such an increase needed?

ANSWER: The propulsion budget increased from $1,029,000 in FY-1985 to $2,200,000 in FY-1986. The additional resources reflect the increased emphasis we are placing on defining the problems resulting from foreign object ingestion and containment improvements for new second generation high bypass turbofan engines.

SENATOR ANDREWS: The benefits of the studies seem to be largely to develop foreign object ingestion criteria for new, high bypass turbofan engines. Could this research be performed by manufacturers?

ANSWER: The propulsion project supports the development of criteria guidelines and data to enable the FAA engineers to respond to improvements in the engine certification requirements for turbojets and piston engines. Part of the propulsion project is devoted to ingestion problems for transport turbofan engines (birds, excessive rain, and runway water). Much of the data gathering is performed by contractors such as Pratt and Whitney and General Electric rather than by in-house research alone.

SENATOR ANDREWS: Are more stringent criteria required of these engines than of existing engines?

ANSWER: The propulsion project will review the current criteria and guidelines for new, higher bypass ratio turbofan engines and revise or develop criteria, standards, testing guidelines as necessary. The impact of advanced engine materials utilization on current standards and criteria will be investigated. At this time, we do not know if the criteria will be more stringent.

SENATOR ANDREWS: Research to improve crashworthiness is reduced from $3,453,000 in FY 1985 to $2,577,000 in FY 1986. Why has this program been reduced? What improvements have been made in this area?

ANSWER: There was a buildup of funds in this area to finalize the Controlled Impact Demonstration (CID) and for reduction of the data obtained from the demonstration. The level of effort for our sustaining engineering program in this area has remained relatively unchanged.

The data from the CID, as well as other aspects of the program, will lead to the issuance of proposed regulatory actions this year for improved seat strengths and dynamic seat testing, and guidance material for human tolerance limits, crash scenarios, and analytical models for improved crashworthy designs.

SENATOR ANDREWS: What types of aircraft would most benefit from this research, e.g., helicopters, commuter, general aviation?

ANSWER: Although our prime focus to date has been on transport aircraft, all categories of aircraft benefit from our aircraft safety research and development program. There is a full transfer of technological applications wherever possible.

SENATOR ANDREWS: Would you provide information on the types of aircraft involved in the 99 crashes referred to in the justification?

ANSWER: The 99 aircraft were domestic U.S. air carriers. Twenty-six were on final approach, thirty-three on landing, thirty-eight on takeoff, and two on the ground. These were all transport aircraft (e.g., B-727, B-737, DC-9, etc.), certificated under Part 25 of the Federal Aviation Regulations.

SENATOR ANDREWS: The flight safety program includes research on icing conditions, electromagnetic interference and helicopter low speed handling qualities. "A Study on Geographical Distribution of Lightning Conditions Around the Country Will Be Completed" in FY 1986. (1) Is this what was discussed last year as "effort to characterize the airborne lightning threat"? (2) Isn't the geographic distribution of lightning closely correlated with the distribution of thunderstorms? (3) Isn't the distribution of thunderstorms already known; wasn't it used in wind shear research, for example?

ANSWER: The study of geographical distribution of lightning conditions around the country is part of what was discussed last year as "Efforts to Characterize the Airborne Lightning Threat."

While the geographic distribution of lightning is related to the distribution of thunderstorms, and the distribution of thunderstorms has been documented through satellite data and was used in wind shear research, the study of lightning conditions around the country is providing additional essential data that has not been provided by this past work. The lightning study will indicate not only geographic regions where aircraft are most likely to be struck, but will: (a) provide information on the phenomenology of aircraft triggered lightning; (b) assist in developing a thunder cell model delineating electrical charge center activity (i.e., where charge centers are located in the clouds and how they form, diminish, and then reform); and (c) provide information to develop multicharge theory (i.e., high altitude charge centers that cause cloud-to-cloud lightning strikes as opposed to low altitude charge centers which cause cloud-to-ground and ground-to-cloud strikes).

SENATOR ANDREWS: How would improved knowledge of the geographic distribution of lightning affect aircraft certification standards, which are presumably the reason for this research?

ANSWER: Improved knowledge concerning the geographic distribution of lightning is essential to assure that adequate protection is prescribed for aircraft. Not enough is known about thunderstorm activity and the associated lightning characteristics in some regions such as northwestern U.S. and Japan. In these regions, lightning has been found to travel from the ground to positive charge centers in clouds more frequently than in other regions around the world. This type of lightning is of higher energy and different wave form than the presently assumed lightning threat standard associated with the most common form of lightning which travels from negative charge centers in clouds to the ground. Additional information is necessary to establish a more realistic data base for the development of protection criteria for aircraft certification and operation.

SENATOR ANDREWS: Do aircraft certification standards vary across the country due to geographic factors?

ANSWER: Aircraft certification standards do not vary across the country due to geographic factors. Aircraft certification standards are specified in the airworthiness requirements of the Federal Aviation Regulations and apply to all aircraft, regardless of location.

SENATOR ANDREWS: It would appear that the Department of Defense and the State Department, among others, would be extremely interested in methods of detecting explosives and deterring sabotage. Is your explosive/sabotage detection program coordinated with them?

ANSWER: FAA has always followed a policy of coordinating its explosive/sabotage detection program with other interested Government agencies.

Currently, FAA has three active interagency programs with Department of Defense and Department of Energy that utilize both their technology and personnel. The following events illustrate this policy of cooperation and coordination:

1971 - FAA instigated the formation of the Congressional approved Government Interagency Committee on Explosive Detection that was chaired by the Bureau of Alcohol, Tobacco, and Firearms. This committee, which included representatives from DOD, sponsored the identification, evaluation, and testing of sabotage/explosive detection systems.

1976 - An FAA task force prepared a program to respond to the LaGuardia airport terminal bombing. The technical program established was reviewed by Government agencies including Department of Defense, Alcohol, Tobacco, and Firearms, Law Enforcement Assistance Administration, Customs, and Justice.

1978 - FAA cosponsored with Treasury, Energy, and Justice, a New Concepts Symposium and Workshop on detection and identification of explosives (October 30 through November 1, 1978, Reston, Virginia).

1980 - The FAA is a contributor to the Department of Defense Information Exchange program with UK, Canada, and Australia (The Technical Coordinating Panel (TTCP)). In the U.S., the information is exchanged with the TTCP Explosive and Munition Detection Focus Officer by FAA, DOE, USPS, and DOD laboratories.

1981 - FAA and Canadian Research Council are sharing development activities of explosive vapor detection.

1983 - FAA participates in State Department Interagency Group on Terrorism chaired by Ambassador Robert Oakley, Director, Office of Counter Terrorism and Emergency Planning. FAA also participates in the Technical Support Working Group cochaired by DOD and DOE. All interested Government agencies are represented.

1983 - A DARPA/FAA technical interchange meeting on explosive detection was chaired by Dr. Cooper and attended by the Army and CIA representatives.

1983 - FAA sponsored Aviation Security Workshop (April 18-19) with invitees including all Government agencies, industry, and academia.

1985 - FAA/ASTM cosponsored Fourth International Civil Aviation Security Conference. Thirty-six countries and U.S. Government agencies will be represented.

SENATOR ANDREWS: Have you reviewed their technology in this area?

ANSWER: The Federal Aviation Administration, since the inception of its explosive/sabotage detection program, has attempted to preclude any duplication of development efforts by maintaining an active information exchange on technology with other Government agencies. Currently the Federal Aviation Administration has three active interagency programs with Department of Defense and Department of Energy that utilize both their technology and personnel. The continuing Federal Aviation Administration explosive/sabotage detection program has included Department of Defense and its services, Department of Energy and its laboratories, United States Postal Service, Law Enforcement Assistance Administration, Alcohol, Tobacco, and Firearms, and Customs. Department of Defense and Department of Energy are the only other known Government agencies currently active in the development of explosive/sabotage detection systems.

ENVIRONMENT

SENATOR ANDREWS: Airport capacity has been cited as a cause for delays in air travel. Will research on aircraft noise reduction and control reduce resistance to airport construction or expansion?

ANSWER: Environmental concerns, primarily noise, have resulted in some kind of local action to reduce or mitigate aircraft noise at more than 540 U.S. airports. Many of these actions create a constraint on airport capacity. As individual aircraft are designed and manufactured to operate more quietly than older models, the need for these constraints should decrease. New aircraft now coming off the assembly lines represent the best available technology in noise control. Further advances in quiet aircraft operation will require further research and development.

SENATOR ANDREWS: Can the adverse noise impacts of aircraft be substantially reduced in the near future?

ANSWER: No. As the new, quieter Stage 3 aircraft constitute a larger and larger portion of the aircraft fleet, noise impacts will gradually decrease. At the same time, however, increased numbers of operations will offset that decrease somewhat. Despite our best efforts, Stage 1 aircraft will continue to operate into U.S. airports through 1985, and Stage 2 aircraft will operate for many years into the future. Aircraft noise impacts will decrease, but gradually and not dramatically.

SENATOR ANDREWS: Practically speaking, is the potential for noise control reduction in the next 15 years such that environmental objections to airports can be overcome?

ANSWER: The gradual replacement of older, noisier aircraft with newer, quieter models will continue to reduce noise exposure levels around our airports. At the same time, however, increased operations of all aircraft will tend to offset those advantages to some extent. Certainly, if all aircraft in operation today were the newer, quieter Stage 3 models, airport noise problems would be reduced substantially, but not eliminated entirely.

ADVANCED AUTOMATION SYSTEM

SENATOR ANDREWS: In FY 1985 Design Competition contracts were awarded to two contractors to develop separate Advanced Automation Systems with the winner to be determined in FY 1987. In total, the research on the Advanced Automation System is expected to total more than $423 million. What do you currently estimate as the production cost of the system?

ANSWER: By the end of the Advanced Automation System (AAS) Design Competition Phase (DCP), the two contractors (selected in FY 1984) will have formulated a full design for the AAS. In FY 1987, a winner will be selected for full system development and production. The total cost of this phase of the program is currently estimated at $2.7 billion through 1994.

SENATOR ANDREWS: Will the final design incorporate the best features of both competitor's designs or is this impractical?

ANSWER: The ultimate Advanced Automation System (AAS) will incorporate the architecture, hardware, software, and special features of the winning competitive contractor's design which will have been tailored to satisfy the various requirements detailed in the FAA's specifications and standards. The competitive nature of the Design Competition Phase (DCP) precludes any cross-fertilization of design features between the two contractors' approaches because of the necessity to maintain technical isolation and integrity of the two designs, and the elaborate security measures taken to insure the integrity and fairness of the Acquisition Phase award.

SENATOR ANDREWS: For FY 1986, $101,519,000 is requested to develop the two systems. Will the losing system represent a $50 million loss? If not, how much is to be spent on each system?

ANSWER: In selecting the acquisition strategy for the Advanced Automation System (AAS), it was recognized that additional initial cost would be incurred by funding two competitive contractors during the Design Competition Phase (DCP). However, maintaining stiff competition through the DCP will ensure the lowest obtainable cost of the Acquisition Phase (AP) along with the lowest risk program. The savings obtained in the materially larger, $2.7 billion, Acquisition Phase will more than compensate for the relatively small cost increase incurred in the DCP with dual competitive contractors.

SENATOR ANDREWS: How much does the FAA expect to gain from the competition?

ANSWER: The overall gains that the FAA will derive from the use of dual competitive contractors during the Advanced Automation System's (AAS) Design Competition Phase (DCP) are threefold. First, there will be substantially lower total program costs in maintaining stiff competition through the DCP and subsequently obtaining fixed price hardware bids for the Acquisition Phase (AP). Second, pursuing two system designs in parallel increases the likelihood of achieving at least one technically sound design on schedule. Third, experience in other programs with initial competition (e.g., the Host program) has shown that contractor performance is significantly better than it might be without competition for the large follow-on production award.

SENATOR ANDREWS: Will the acquisition contract be let in July 1987? Will sector suite delivery begin in August 1989? If not, please explain delays.

ANSWER: The Advanced Automation System Design Competition contracts were awarded on schedule and are proceeding well. There is currently very high confidence that the Acquisiton Phase (AP) contract will be awarded on schedule in July 1987. Sector Suite delivery is expected to be on schedule.

CONTROLLER WORK FORCE

SENATOR ANDREWS: The FAA has used a number of different terms to describe its ATC work force, for example, "operational controller." Please provide the following information, shown separately for centers and terminals, regarding controller staffing goals and on-board strength.

Goals

FPL radar controllers
FPL nonradar controllers
First-line supervisors
Other managers and staff specialists
Air Traffic assistants

On-board (as of 2/28/85)

FPL radar controllers
Developmental radar controllers
FPL nonradar controllers
Developmental nonradar controllers
First-line supervisors
Other managers and staff specialists
Air Traffic assistants

ANSWER: We have overall staffing goals for centers and towers which represent planned end of year employment. As subsets of those overall goals, we have controller work force "goals" which represent the employment levels dictated by our staffing standards. Within the controller work force we describe our controller goals in terms of "operational controllers" (personnel who have qualified on a minimum of two controller positions of operation) because our developmental pipeline is intended to maintain the operational controller complement at 100 percent of the staffing standard requirement. We do not have specific numerical goals for FPL controllers. At present, 69 percent of our controllers are FPL. In July 1981, 81 percent were FPL. We expect to be very close to that level by the end of FY 1987, and to exceed it the following year. We have no staffing standards for first-line supervisors, other managers and staff specialists and therefore, strictly speaking, no goals. Our directives specify the maximum number of each category which may be employed at each facility. Our staffing requests assume that 90 percent of these positions will be filled. However, no separate goals are established for the three categories listed above. It should be understood that controller staffing "goals" change at least every year, and usually frequently.

Goals	Centers	Terminals
FPL radar controllers	No goal	No goal
FPL nonradar controllers	No goal	No goal
Operational Controllers	5,189	6,096
First-line supervisors	No goal	No goal
Other managers & staff specialists	No goal	No goal
Work force other than controller/assistants	2,079	2,742
Air Traffic assistants	947	947
Development pipeline controllers	649	478

On-board (as of 2/28/85)

	Centers	Terminals
FPL radar controllers	2,951	2,951
Developmental radar controllers & Trainees*	2,899	1,878
FPL nonradar controllers	-	1,877
First-line supervisors	739	1,205**
Other managers and staff specialists	999	1,214
Air Traffic assistants	905	798
Facility support positions	409	421

* Our statistics do not distinguish between radar & nonradar developmentals.

** Does not include Air Traffic Managers at small terminal facilities where the facility manager is also a first-line supervisor.

CONTROLLER TRAINING

SENATOR ANDREWS: Is FAA's pass rate goal for the Academy still 70 percent? If so, what steps is FAA taking to improve the current pass rate? When does FAA expect to reach its goal?

ANSWER: FAA does not have a pre-established pass rate goal for initial qualifications training. Because of variations in the background, abilities, and maturation of individual students and classes, it would not be appropriate to establish a quota or goal beyond the composite grade of 70 used as the standard which must be met by all students.

SENATOR ANDREWS: In the light of the high failure rates, why did FAA start phasing down its Academy training from 500-550 per month to 100-150 per month (beginning in November 1982 for en route controllers and in February 1983 for terminal controllers)? What is the current monthly training level?

ANSWER: FAA field facilities could not continue to absorb the large output of Academy graduates and provide them with on-the-job training opportunities. Even with the accelerated training program in place, it can take up to three years for a controller to become fully qualified on all required positions. During FY 1985, we are averaging about 200 trainees per month.

SENATOR ANDREWS: Why are the training failure rates so high, considering that FAA's new entrance examination is supposed to screen applicants better?

ANSWER: FAA and the Office of Personnel Management (OPM) have completed an analysis of the use of the new examination and its relationship to the Academy training program. This analysis identified a number of factors which contribute to the training results. While the examination continues to have high validity in predicting Academy success, it is evident that several actions need to be taken.

First, we found that over 10 percent of the applicants hired have taken the examination two or more times to improve their competitive scores. Unfortunately, as a group, they only pass the training program at a 46 percent rate compared to 61 percent for applicants who took the test only once. In some classes, over 30 percent of the students have taken the test multiple times. In order to control this feature, we have arranged with OPM to limit the frequency of test taking to no more than once in any 18-month period.

Secondly, it is clear from the following data table that for students who took the examination only once, the higher they score on the examination the more likely they are to complete training successfully.

EXAM GRADE AT HIRING	NUMBER HIRED	NUMBER PASSED	PERCENT PASSED
95+	1,540	1,179	77%
90-94	2,511	1,556	62%
85-89	2,170	1,178	54%
80-84	829	369	45%
Totals:	7,050	4,282	61%

We also learned that we only hire about 30 percent of those applicants who scored 95 and above. Consequently, we are establishing a concentrated and expedited hiring program in an effort to hire more of the highest scoring applicants.

These actions together with other changes being initiated as a result of our review should have a positive effect on our success rates at the FAA Academy.

SENATOR ANDREWS: What does it cost to train a controller from entry through FPL? Provide a breakdown among initial Academy training. Academy radar training, and facility-level training (OJT and classroom). Including the costs associated with those who failed or withdrew from training in computing training costs.

ANSWER: Controller training cost is detailed in the following table.

ACADEMY	TERMINAL	EN ROUTE
Initial Qualification:		
Instruction Cost..................	$ 3,311	$ 3,326
Travel/Per diem..................	4,451	3,653
Student PC&B.....................	5,656	3,894
Subtotal.........................	$13,418	$10,873
Radar Qualification		
Instruction Cost..................	$ 2,420	$ 2,420
Travel/Per diem..................	1,525	1,525
Student PC&B.....................	1,976	1,976
Subtotal.........................	$ 5,921	$ 5,921
Total Centralized Training Cost.....	$19,339	$16,794

	TERMINAL	EN ROUTE
Allocated Cost of Failed or Withdrawn Students	$11,410 1/	$14,947 2/
Facility Level		
Trainee PC&B	$29,121	$42,195
OJT Trainer PC&B	20,540	32,702
Total Facility-Level Cost	$49,661	$74,897
Total Training Cost to FPL 3/	$80,410	$106,638

1/ Factor=0.59 based on 63% pass rate (FY 1984)
2/ Factor=0.89 based on 53% pass rate (FY 1984)
3/ Total Centralized Training Cost plus Allocated Facility-Level Cost

SENATOR ANDREWS: What are the added costs to FAA of going back to double shifts at the Academy in December 1984 to make up for the unanticipated losses?

ANSWER: The additional cost which FAA will incur in FY 1985 as a result of returning to double shifts is:

Shift Differential (Salary)	$ 68,000
Additional Contract Instructors	300,000
Additional Bus Service	66,000
Total Cost	$434,000

SENATOR ANDREWS: To what extent are graduates from accredited Airway Science curriculums absorbed into the training system with credit for that academic study?

ANSWER: Graduates from recognized Airway Science curriculums are absorbed into the training system through a standardized Individual Development Plan established for the various occupations into which these graduates are hired. An initial review of the new hire's background and experience is completed and compared with the standardized training plan for the occupation. An individualized plan which takes into account the employee's academic study is then developed. In this way, credit for the Airway Science curriculum is given based on the degree that each course relates to the needs of the position to which the graduate is assigned.

REEMPLOYED ANNUITANTS

SENATOR ANDREWS: Last year, Congress extended the "Double-Dipping" for controller reemloyed annuitants. Does FAA anticipate the need to continue this program beyond December 1985?

ANSWER: Reemployed annuitants are an extremely valuable supplement to our regular work force. They provide an experience level that is essential given the large influx of new controllers that we have been experiencing, and will provide a needed service for the next few years. Unfortunately, the cut-off date of 1981 for these annuitants to be eligible for full salary and annuity is causing an increasing restriction to our recruitment source. Individuals who retired prior 1981, in general, are not interested in returning, and do not have the recency of experience required to be of benefit to the facility.

PENALTIES

SENATOR ANDREWS: For Fiscal Year 1980 through 1984 what were the monetary penalties proposed for Part 121 and Part 135 air carriers and what were the final monetary settlements?

ANSWER: Part 121 and Part 135 air carriers cannot be identified for fiscal years prior to 1981.

Listed below is the penalty amount recommended by the investigating office and the final amount when the cases were closed.

Part 121 carriers:

Fiscal year	Recommended Amount	Final Amount
81	$1,088,100	$269,834
82	744,200	362,699
83	1,019,155	257,326
84	2,885,782	107,870

Part 135 carriers:

Fiscal year	Recommended Amount	Final Amount
81	$504,825	$80,050
82	239,655	61,643
83	719,450	83,729
84	605,350	87,550

SENATOR ANDREWS: Are these fines adequate to deter air carriers from violating FAA safety regulations?

ANSWER: In most cases, civil penalties and the stigma they carry are believed adequate to deter other violations, at least to the same extent that other penalty systems have a deterrence value. Most violations by certificated air carriers are inadvertent. Deliberate or otherwise egregious violations warrant action to suspend or revoke operating certificates. We rarely see evidence that a carrier has deliberately committed violations based on a calculation that they generate more revenue than the costs of potential civil penalties. However, there may be cases in which increased civil penalties may be an added deterrent, and we are considering the need for legislation to provide for such an increase.

SENATOR ANDREWS: How high a priority is given to processing monetary penalties? How long does it generally take to process the penalty from the time the violation is first identified to the time payment is made? Is there a backlog of such penalties within the FAA that need to be expedited? How far back does this backlog go? What were the violations identified? Do you believe the backlog is larger or smaller than what should be expected?

ANSWER:, Within FAA, processing of civil penalties has the same high priority as other non-emergency enforcement actions, but the statutory civil penalty system involves, by its nature, a somewhat slower process than certificate actions (suspensions, revocations). Basically, our civil penalty authority set forth in section 901 of the Federal Aviation Act of 1958, as amended (49 USC 1471) does not include authority for FAA to directly assess or collect civil penalties (except for hazardous materials violations). We are authorized to accept a violator's offers to compromise a civil penalty. If no such compromise is reached, the agency forwards the case to the appropriate U.S. Attorney for institution of a civil suit in U.S. District Court. The U.S. Attorneys' offices must deal with such cases along with a variety of civil and criminal cases, many of which have higher relative priority or which have been pending on a crowded court calendar for a longer time. In the interest of conserving public resources, most civil penalties are eventually "settled" short of litigation, but only after a negotiation process that can often be time-consuming.

The time it takes to "complete" (receive payment in) a civil penalty action thus varies from case to case, ranging from 90 days after the violation in a simple case, to more than 2 years in a complex case which reaches the civil litigation stage. Insofar as the processing time for such cases is within the agency's control, we have recently emphasized the importance of handling them in a timely fashion. Specific milestones for completing each phase of an enforcement action were established last October in order to expedite the processing of enforcement cases. At present, most civil penalty cases are being processed in accordance with the milestones. A temporary "backlog" of uninitiated enforcement cases (those for which a proposed civil penalty letter had not yet been issued) did arise as a result of the air traffic controller strike in 1981, when our legal staff labored under an extraordinary caseload of strike-related actions. However, this backlog has been virtually eliminated, and, overall, no significant backlog exists today.

SENATOR ANDREWS: How much does it cost the FAA to process a penalty? Do the monetary penalties collected come close to covering the cost of processing the penalties? If not, shouldn't they?

ANSWER: Actual agency costs in the civil penalty process vary greatly from case to case and figures are not readily available. In most cases, the civil penalties collected probably do not cover the costs of investigation and legal handling. However, cost recovery should not be the sole or even the primary consideration in setting penalties. The primary goal of our civil penalty scheme is to promote aviation safety. In some cases, this can be accomplished more effectively by a carrier spending money on improving its internal systems to prevent a recurrence of a violation, rather than imposition of a large civil penalty. We take a carrier's attitude towards compliance and the corrective action taken to improve its operations into account when assessing a penalty. Thus, the amount of the penalty itself is not always an accurate reflection of the amount incurred by a carrier as a result of an enforcement action. In general our philosophy is that a penalty should be fair, consistent, and sufficient to discourage repetition of the violation, or a violation by others similarly situated.

HOLIDAY

SENATOR ANDREWS: What are FY 1986 additional holiday pay costs? For which accounts and activities are these costs included?

ANSWER: For the one additional holiday in FY 1986 the costs total $2,178,000. These costs are included in the Operations appropriation under two activities, Operation of the Traffic Control System and Maintenance of the Traffic Control System, and in the Operation and Maintenance, MWA appropriation.

MATERIEL HANDLING SYSTEM

SENATOR ANDREWS: Where in the budget are shown the FY 1986 follow-on costs and savings associated with the installation of the Materiel Handling System approved in FY 1985 through the reprogramming process? Is this associated with the item (on pg. 51) resulting in $5,000 savings?

ANSWER: The FY 1986 follow-on costs and savings associated with the installation of the Materiel Handling System approved in FY 1985 through the reprogramming process are not included in the FY 1986 budget. Follow-on cost and savings, once the system is installed, will be provided to the Committee on Appropriations as required in the FY 1985 reprogramming confirmation letter, dated January 9, 1985. The $5,000 savings (on page 51) refers to the purchase of test equipment at the FAA Depot, not the Materiel Handling System.

INSTALLATION AND MATERIEL -- ADMINISTRATIVE SERVICES

SENATOR ANDREWS: An estimated $10.6 million is requested for repair and maintenance of FAA managed facilities. How does annual maintenance and repair of the Mike Monroney, Atlantic City and Southwest Regional Facilities compare with GSA costs for other Federal Properties? To what extent have these costs been contracted out, and what are the FY 1986 savings?

ANSWER: There is no specific study comparing FAA costs for these locations to GSA costs for other federal properties because our facilities at the Mike Monroney, Atlantic City and Southwest Region are primarily technical in nature as opposed to the administrative facilities generally managed by the GSA.

Nearly all repair and maintenance activities have been contracted out for a number of years; therefore, we do not have specific savings identified for FY 1986.

SENATOR ANDREWS: Over $8 million is requested in this activity in FY 1986 for printing and reproduction costs. Does this cover all of FAA? If not, what is the total cost in FY 1985? What FY 1985 Section 2901 reductions for printing will be absorbed with the materiel services operations activity?

ANSWER: In FY 1986, FAA is requesting $8.2 million under the materiel services operations activity for printing and reproduction costs. This amount represents 94% of the total FAA printing and reproduction cost of $8.7 million. The total FAA cost in FY 1985 is $8.1 million. A $2.7 million reduction has been absorbed in the FY 1985 base for printing and reproduction under materiel services operations activity as a result of Section 2901 reductions.

FIREARMS

SENATOR ANDREWS: Outline FAA regulations pertaining to air transportation of firearms, both for carryon and cargo containers. What are the regulations applicable only to Washington National Airport and Dulles International Airport?

ANSWER: Federal Aviation Regulations (FAR) 108.11 pertains to carriage of firearms. Ammunition is regulated under Title 49, but Section 107(c) of the Hazardous Materials Act states "Nothing in this title, or any regulation issued under this title, shall be construed to prohibit or regulate the transportation by any individual, for personal use, of any firearm (as defined in paragraph 4, section 232, Title 18 USC) or any ammunition, therefore, or to prohibit any transportation of firearms or ammunition in commerce." FAR 108.11 limits the carriage of firearms aboard an aircraft generally to law enforcement officers who need to have the weapon accessible in connection with official duty performance aboard the aircraft. Further requirements include:

- Prior notice to the airline
- Presentation of photo credentials
- Flight crew notification
- Familiarization with airline procedures
- No consumption of alcholic beverages

In addition to the laws and regulations applicable to the transportation of firearms and preboarding security, the FAA has adopted 14 CFR 159.79, Dangerous Objects, which applies only to Washington National and Washington Dulles International Airports. This rule provides:

"(a) No person except a Peace Officer, an authorized Post Office, Airport, or air carrier employee, or a member of an Armed Force on official duty, may carry any weapon, explosive, or inflammable material on or about his person, openly or concealed, on the Airport without the written permission of the Airport Manager.

"(b) No person may furnish, give, sell, or trade a weapon on the Airport.

"(c) For the purposes of this section a weapon includes a gun, dirk, bowie knife, black jack, switch blade knife, slingshot, or metal knuckles."

SENATOR ANDREWS: Does 14 CFR Section 159.79(a), which provides: "No person . . . may carry any weapon . . . on or about his person...openly or concealed, on the Airport without the written permission of the Airport Manager," apply to all airports?

ANSWER: No. This rule was adopted by the FAA in its role as local airport proprietor. It is in the nature of a local firearm ordinance and does not apply to other airports. Other airports can adopt a regulation of firearms. Often the firearm regulation/ordinance etc., of the jurisdiction in which the airport is located would apply at the airport. Local ordinances on firearms do not apply at Washington National Airport, an area of exclusive Federal jurisdiction, therefore FAA adopted a regulation intended to promote airport security.

SENATOR ANDREWS: Does this FAA regulation apply to a passenger who seeks to carry a firearm in his luggage aboard a commercial flight in an inaccessible part of the aircraft, pursuant to the Air Transportation Security Act of 1974? How are air passengers notified of necessary clearances from the airport manager for Dulles and National Airports before attempting to check firearms? Are these requirements enforced uniformly?

ANSWER: The language of the regulation is broad enough to apply to a passenger who is carrying a weapon in luggage through the airport. Specific notice to such passengers of the regulation is not currently provided. Passengers who do not attempt to pass through a security check point with a weapon in their luggage, but rather check their luggage properly with the air carrier are not prosecuted under this regulation. This is uniformly applied.

OPERATIONS FINANCING

SENATOR ANDREWS: Explain the lapse of $9,474,000 and the adjustment in expired accounts of $18,872,000 in FY 1984.

ANSWER: The .4 percent lapse in the FY 1984 Operations appropriation is due to delays in the procurement of stocks and stores supplies at the Aeronautical Center resulting from a change in the procurement process and also delays in the processing of some contracts scheduled for award at the end of the fiscal year.

The unusually high adjustment in expired accounts occurring in FY 1984 can be attributed to a $14,000,000 one-time adjustment against the obligations established for the cost of the military air traffic controllers who assisted the FAA after the air traffic controllers strike in late FY 1981. About $24,000,000 was originally obligated to finance personnel compensation for military controllers. Then in the Supplemental Appropriations Act, 1982, the Congress limited the amount of reimbursement to the Department of Defense to $10,000,000 — thus the need for a $14,000,000 adjustment.

Two other factors contribute to the unusually high adjustment in expired accounts. One is a $3,500,000 reduction for Standard Level User Charges (SLUC). The other is a $2,500,000 adjustment for aircraft loan guarantees formerly covered under the Operations appropriation. These major adjustments combined with a variety of smaller adjustments resulted in a net adjustment in 1984 of $18,872,000 in the Operations appropriation.

AVIATION STANDARDS

SENATOR ANDREWS: Appropriations for FY 1985 Aviation Standards are now estimated at $269 million, an increase over the amended budget year request, and $11 million higher than the level recommended in the FY 1985 report. Please explain. To what extent is the increase related to increased air carrier surveillance?

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ANSWER: The increase of $11 million above the level in the FY 1985 report includes $6.4 million for the FY 1985 civilian pay raise and approximately $4.0 million for full-year funding for 166 inspector positions approved by the Secretary in FY 1984.

DIRECTION, STAFF AND SUPPORTING SERVICES

SENATOR ANDREWS: Why were actual FY 1984 obligations for Direction, Staff and Supporting Services over $10 million higher than FY 1983?

ANSWER: FY 1983 obligations for Direction, Staff and Supporting Services (DS&SS) were $141,325,000. FY 1984 obligations for DS&SS were $151,740,000, an increase of $10,415,000. This difference is mostly attributable to two items: (1) DS&SS funds Federal Employees Compensation payments. This was $51,161,815 for FY 1983 and $57,624,730 in FY 1984, an increase of $6,462,915; (2) There were major automatic data processing computer purchases in FY 1984 to take advantage of lease versus purchase cost savings. This was approximately $6,500,000 over the FY 1983 level.

CENTRALIZED TRAINING

SENATOR ANDREWS: Obligations for centralized training for FY 1985 total $103 million, an increase over the $86 million recommended in the report accompanying last year's bill. Explain this increase.

ANSWER: The FY 1985 centralized training allocation was increased from $86 million to $103 million in order to eliminate the deficit in enrollments and requirements which were not funded at the $86 million level.

The original funding level supported the training of only 1,494 air traffic initial qualification students. The FY 1985 program was increased to 2,772 entering students in order to compensate for failures/withdrawals from training and meet increased staffing goals resulting from increased air traffic activity, industry pressure to restore full pre-strike scheduling options, and anticipated retirements. A deficit of approximately $2.4 million existed in contractual support for air traffic course development and revision and initial development of improved screening to improve the controller full performance level achievement rate.

In the Aviation Standards area, the original FY 1985 budget did not provide for essential inspection and other training (100 digital avionics maintenance enrollments and almost 200 requirements for mandated recurrent flight training).

There was an additional deficit for 1,100 enrollments in a variety of required and scheduled technical training.

FAA POSITIONS

SENATOR ANDREWS: Total positions are decreased 403 in FY 1986 (372 in Operations and 26 in Metropolitan Washington Airports). What functions are reduced? To what extent is the reduction associated with A-76 contracting out?

ANSWER: All of the 403 are associated with A-76. In the FY 1985 Congressional submission, FAA reduced FTE's by 402 in anticipation of A-76 contracts to be let in FY 1985. As contracts are awarded, and functions are assumed outside of FAA, we reduce the positions. Functions which have gone "outside" are mail/messenger services, engineering drafting, ADP operations, facility and equipment, maintenance, warehousing, police dispatching (at Dulles and National Airports) and word processing.

OPERATIONS OBLIGATIONS

SENATOR ANDREWS: Explain the 44 percent increase in FY 1986 over FY 1983 for reimbursable obligations. Why was last year's estimate of FY 1984 reimbursable obligations ($39,126,000) overstated relative to the actual $27,757,000 level?

ANSWER: In FY 1983 the total for reimbursable obligations ($30,517,000) for the Operations appropriation includes Headquarters Administration as an activity; in FY 1986 it is a separate appropriation. When FY 1983 is adjusted to exclude Headquarters Administration, the increase in FY 1986 is 37 percent.

Generally, most of the increase since FY 1983 can be attributed to higher costs associated with continuing agreements rather than to an increase in the number of agreements.

The FY 1984 estimate was higher than the actual obligations primarily due to the failure of foreign parties to consummate agreements. Several agreements involving millions of dollars were not obligated in FY 1984, thus generating the significant difference between the $39,126,000 funding authority and actual obligation level of $27,757,000.

OPERATIONS ALLOCATION TO DEPARTMENT OF DEFENSE

SENATOR ANDREWS: Actual and estimated FY 1984 and 1985 operations obligations allocated to the Department of Defense (DOD) are $23 and $16 million, respectively, lower than last year's estimates. Does the reduction reflect a lower level of DOD use of the aviation system?

ANSWER: No. The reduced obligations associated with the Department of Defense (DOD) have no bearing on its use of the aviation system. The operations portion of the leased telecommunications program is merely procured through DOD or more precisely the Defense Commercial Communications Office (DECCO). This amount represents a reduction in services procured through DECCO.

SES

SENATOR ANDREWS: The number and dollar amount of SES performance award bonuses doubled from 1980 to 1983. Explain why. What was awarded in FY 1984, is budgeted for FY 1985, and requested for 1986?

ANSWER: Under the provisions of the Civil Service Reform Act of 1978, there is a 50 percent restriction on the number of performance awards that may be paid to career members of the Senior Executive Service (SES). From July 1980 through FY 1982, however, the Congress mandated a lower restriction through a series of appropriations act amendments. The restriction applied for FY 1980 was 20 percent of eligible career SES members. In 1980, FAA had 90 eligible career members and a total of 17 bonus awards totaling $98,000 were approved by the Department.

For FY 1983, no appropriations restrictions were placed on performance awards so that the number eligible for awards reverted to the 50 percent restriction as mandated in 5 U.S.C. 5384(b)(3). Accordingly, FAA performance awards for FY 1983 amounted to $189,500 for 34 recipients out of 115 eligible career members. In past years when the Congress reduced the number of eligibles through the appropriations process, it indicated that it was not the intent of the Congress that all agencies award the 50 percent statutory limit; but generally, agencies should pay performance awards to no more than 30 to 35 percent of their SES career appointees. So that even though the FAA number of award bonuses doubled from FY 1980 to FY 1983, it is still within those guidelines set by the Congress with 30 percent of eligible SES employees receiving awards in FY 1983.

In FY 1984, the FAA had 37 award bonus recipients for a total of $212,855. For FY 1985, $386,900 is budgeted for 54 award bonuses. In FY 1986, the request includes $450,700 to cover an estimated 62 performance award bonuses.

SENATOR ANDREWS: Why are there no female Senior Executive Service personnel in FAA? How many minorities are represented in SES? What is being done to improve these levels?

ANSWER: There is currently one female in the Senior Executive Service in FAA. Ten minorities are represented in SES.

The FAA is working to eliminate the under-representation of women and minorities in the SES and supervisor/manager positions. The Air Traffic Predevelopmental Program was reactivated thereby aiding in the recruitment of women, Hispanics and Blacks into the air traffic occupation. In addition, special emphasis employment programs are a major source of women and minority hires. The Secretary of Transportation has stressed the elimination of under-representation of women and minorities in policy-setting positions and has initiated a Hispanic recruitment program which includes the FAA.

PAY SUPPLEMENTAL

SENATOR ANDREWS: An Operations pay supplemental of $22,000,000 is requested, by transfer from the Northeast Corridor Improvement Program. What level of absorption is assumed? In the event Congress seeks to transfer pay costs from another source, what unobligated balances will remain in the Construction, Metropolitan Washington Airports (MWA) or other FAA accounts to offset pay requirements?

ANSWER: The pay supplemental request of $22,000,000 assumes absorption of 22,000,000 (50%) of total pay cost requirement of $44,000,000.

The Construction, MWA account had $7,460,000 in unobligated balances at the end of FY 1984. $910,000 is proposed for transfer to O&M, MWA and Headquarters Administration appropriations to cover 50% of the pay costs in those appropriations. The remainder of the unobligated balance is planned for obligation in FY 1985.

AVIATION LEGISLATION

SENATOR ANDREWS: What is the status of the legislative proposal to increase the Trust Fund share of the FAA operations account?

ANSWER: The Administration's legislative proposal is in the final stages of Executive Branch review, and it will be sent to Congress in the very near future.

FLIGHT SERVICE STATIONS

SENATOR ANDREWS: When will Congress see a proposal for privatization of Flight Service Stations (FSSs)?

ANSWER: The FSS privatization study, expected to be completed by mid-May 1985, will assess the capability and feasibility of the private sector to perform some or all of the functions of flight service stations. The results of that study will determine further actions on the matter.

GRANTS-IN-AID FOR AIRPORTS

SENATOR ANDREWS: Why is the gap growing between the Grants-in-Aid for Airports liquidation and obligation levels? Why are unobligated balances estimated to increase from $71 million at the start of FY 1984 to $326 million in FY 1986?

ANSWER: Since 1982 the annual obligation levels for the Airport Improvement Program have more than doubled. Historically, it takes as long as five (5) years from the time the average grant is awarded to the date when the project is financially completed. During the intervening years, payments are made to the sponsor in relation to the amount of work accomplished toward completing the grant project. The outlays (liquidation of those obligations) necessarily lag significantly behind the obligations. Therefore, the combined effect of the accelerating obligation pattern and the structural lag in outlays, produces the growing gap between the Grants-in-Aid for Airports obligation and outlay levels.

The increase in unobligated balances is caused by the cumulative effect of having Congressionally provided annual obligation limitations at levels below the Contract Authority which otherwise would have been available for obligation during fiscal years 1984 and 1985.

SENATOR ANDREWS: When will the revised National Plan of Integrated Airport Systems (NPIAS) be forwarded to Congress?

ANSWER: The National Plan of Integrated Airport Systems is in the final stage of review and is expected to be forwarded to the Congress in the next few weeks.

SENATOR ANDREWS: What total airport improvement needs level is identified, and how does this compare to available funding?

ANSWER: The draft NPIAS currently contains 3,219 existing and 449 proposed new airports, and identifies $18.3 billion in development through 1993. The NPIAS reflects the total investment needs of the system of airports, much of which will be accomplished without Federal aid by local and state governments.

Until expiration of the Airport and Airway Improvement Act of 1982 in 1987, Federal funding for fiscal years 1985, 1986, and 1987, is provided at $925 million, $1,017.0 million, and $1,017.2 million per year, respectively.

RELIEVER AIRPORTS

SENATOR ANDREWS: The justification indicates that reliever airports will continue to receive higher than the minimum authorized levels. Provide an analysis of FY 1982 - 1986 AIP fund distributed by category.

ANSWER: The information follows:

Grants in Aid
FY 82 - FY 86
Airport Improvement Program

	FY 82 ($ M)	FY 83 ($ M)	FY 84 ($ M)	FY 85 ($ M)	FY 86 ($ M)
Total Available	450.0	804.5 1/	800.0 3/	925.0 5/	1017.0 7/
Reliever Minimum	45.0	60.0 2/	73.5 4/	91.2 6/	101.7 8/
Actual Reliever Obligations	49.1	100.2	103.4	Not complete	

1/ Includes basic authorization of $600 million, $150 million authorized under Surface Transportation Assistance Act (STAA) of 1982, and $54.5 million of unrequested entitlements carried over from prior years.

2/ 10% of basic authorization of $600 million.

3/ Includes basic authorization of 793.5 million and $6.5 million authorized under the STAA.

4/ 10% of basic authorization of $793.5 million.

5/ Includes basic authorization of $912 million and $13 million authorized under the STAA.

6/ 10% of basic authorization of $912 million.

7/ President's FY 1986 budget request and authorization.

8/ 10% of basic authorization of $1017.

CONGRESSIONAL LIST

SENATOR ANDREWS: Provide for the record the status of FY 1985 airport grants for those airports listed on page 32 of Senate Report 98-561.

ANSWER: The information follows:

STATUS OF NAMED LOCATIONS

SENATE COMMITTEE ON APPROPRIATIONS REPORT FOR FY 1985 APPROPRIATIONS

LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
ALASKA			
Unalaska (S) (Formerly Dutch Harbor) Unalaska (COMMERCIAL)	Nothing formally. Sponsor interested in extending runway and other improvements to existing airport - no costs identified. Construction of a new airport is also being considered at an estimated cost of up to $90 million.	None.	State exploring various options. Because of high cost of new airport, we would not be able to fund more than a small part of the project in any year.
FLORIDA			
Ft. Lauderdale (S) Ft. Lauderdale-Hollywood (PRIMARY)	Construct taxiway and apron (site prep - Phase I); construct apron; acquire crash/fire/rescue equipment; construct terminal buildings; construct access ways - $7,250,103; construct additional apron - $5,754,056; relocate railroad; $3,187,965; construct service road - $328,725; construct access way - $1,134,012; construct commuter apron - $435,370; additional land for development - $27,750,00; land for development - $12,000,000.	Construct taxiway and apron (site prep - Phase I); construct apron; acquire crash/fire/rescue equipment; construct terminal building; construct access ways - $7,250,103*.	Sponsor has taken bids for the $5.75M additional apron area in anticipation of more FY 85 funding.
Orlando (S) Orlando International (PRIMARY)	Master plan update - $191,251; improve access way (landscaping) - $1,170,783; rehabilitate cargo apron - $453,000; improve drainage - $453,000; rehabilitate apron - $1,120,875; land for development - $315,562; reconstruct service roads - $176,299; land for development - $225,000; land for noise compatibility - $3,738,654.	Master plan update - $191,251*; improve access way (landscaping) - $1,170,783; rehabilitate cargo apron - $453,000; improve drainage - $453,000; rehabilitate apron - $1,120,875; land for development - $315,562; reconstruct service roads - $176,299; land for development - $225,000.	Sponsor may use balance of entitlements for a portion of the lower priority noise land.

(S) = SENATE REPORT

* Denotes programmed project. Other projects in this column are still in formulation and descriptions and/or dollars are subject to revision.

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LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
MICHIGAN			
Holland (S) Tulip City (GENERAL AVIATION)	Acquire and improve privately owned airport - $7,015,600.	Acquire airport - $1,363,500.	Other improvements will be considered as additional funds become available.
MISSISSIPPI			
Pascagoula (S) Jackson County (GENERAL AVIATION)	Construct runway (site prep - Phase II) - $1,519,600; pave runway - $2,147,310; pave taxiway - $1,106,190; pave apron - $799,200; install runway lighting - $200,000; install taxiway lighting - $106,000; construct access way - $21,000; land for development - $623,700; install fencing - $130,000; land for approaches - $778,500.	Construct runway (site prep - Phase II) - $1,519,600.	This is a replacement airport. It will be funded over several years.
Yazoo City (S) Yazoo City (GENERAL AVIATION)	Land for development - $280,000; construct runway, taxiway, apron and access way (site prep) - $1,104,300; pave runway, taxiway, apron and access way - $1,321,200; install runway and taxiway lighting - $154,800; land for development - $163,880; install fencing - $146,000.	Land for development - $280,000.	Remaining priority items will be funded in future years.
NEW MEXICO			
Las Cruces (S) Las Cruces-Crawford Municipal (COMMERCIAL)	Overlay taxiways; install taxiway reflectors; construct service roads and blast pads; construct taxiways and safety areas - $457,283; construct runway overrun and blast pads; construct apron; install fencing - $963,317.	Overlay taxiways; install taxiway reflectors;* construct service roads and blast pads; construct taxiways and safety area - $457,283*.	The balance of the work will be considered in FY 86.

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LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
NEW MEXICO			
Las Cruces (S) Las Cruces-Crawford Municipal (COMMERCIAL)	Overlay taxiways; install taxiway reflectors; construct service roads and blast pads; construct taxiways and safety areas - $457,283; construct runway overrun and blast pads; construct apron; install fencing - $963,317.	Overlay taxiways; install taxiway reflectors; construct service roads and blast pads; construct taxiways and safety area - $457,283*.	The balance of the work will be considered in FY 86.
Hobbs (S) Lea County (COMMERCIAL)	Rehabilitate taxiways; construct and light taxiways; extend aprons; construct service roads; improve lighting - $544,371.	Rehabilitate taxiways; construct and light taxiways; extend aprons; construct service roads; improve lighting - $544,371*.	All outstanding requests have been satisfied.
NEW YORK			
Buffalo (S) Greater Buffalo International (PRIMARY)	Extend runway safety area (Phase II) - $848,504; improve drainage - $2,522,475; remove old fuel farm - $303,000; construct apron and taxiways - $2,865,286.	Extend runway safety area (Phase II) - $848,504*; improve drainage - $2,522,475; remove old fuel farm - $303,000; construct apron and taxiways (Phase I) - $1,973,624.	Remaining work will be considered in FY 86.
Niagara Falls (S) Niagara Falls Int'l (RELIEVER)	Construct apron (Phase II) - $900,000.	None.	Will be considered for funding late FY 85 or in FY 86.
Farmingdale (S) Republic (RELIEVER)	Construct taxiway - $1,125,000; construct access way - $675,000.	Construct taxiway - $1,125,000.	Remaining lower priority work will be considered later in FY 85 or in FY 86.
Newburgh (S) Stewart (GENERAL AVIATION)	Construct taxiway and apron - $360,000; expand apron - $585,000.	Construct taxiway and apron - $360,000; expand apron - $585,000.	All outstanding requests will be satisfied.

(S) = SENATE REPORT

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LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
Syracuse (S) Syracuse-Hancock International (PRIMARY)	Overlay and groove runway - $4,411,500 (multi-year); install runway distance markers - $20,000; overlay taxiway - $2,022,750	Overlay and groove runway - $1,896,508 (FY 85 portion of multi-year grant); install runway distance markers - $20,000.	Remaining portion of multi-year grant will be funded in FY 86. Taxiway project will be considered for funding in late FY 85 or FY 86.
NORTH DAKOTA			
Bismarck (S) Bismarck (PRIMARY)	Construct runway (design only); acquire snow removal equipment - $655,695.	Construct runway (design only); acquire snow removal equipment - $655,695.	Requested items will be satisfied.
Devils Lake (S) Devils Lake (GENERAL AVIATION)	Porous friction course Runway 13/31 - $350,000; seal coat Runway 3/21, taxiway and apron; expand apron; construct taxiway; expand snow removal equipment building - $598,000.	Porous friction course Runway 13/31 - $350,000; seal coat Runway 3/21, taxiway and apron; expand apron; construct taxiway; expand snow removal equipment building - $598,000.	Requested items will be satisfied.
Fargo (S) Fargo (PRIMARY)	Construct access way system (Phase II) - $1,087,420; construct new terminal building - $1,400,000 (FY 84 multi-year grant); install security fencing - $327,000.	Construct access way system (Phase II) - $1,087,420; construct new terminal building - $440,701 (FY 85 portion of multi-year grant).	FY 84 multi-year project for $1,400,000 for terminal building will be funded through FY 87. Sponsor is advertising fencing in anticipation of additional FY 85 funds. Additional construction will be required in subsequent years to complete the apron, but the total amount has not been determined.
Jamestown (S) Jamestown Municipal (COMMERCIAL)	Reconstruct taxiway and apron; construct snow removal equipment building - $414,903.	Reconstruct taxiway and apron; construct snow removal equipment building - $414,903.	Requested items will be satisfied.

(S) = SENATE REPORT

* Denotes programmed project. Other projects in this column are still in formulation and descriptions and/or dollars are subject to revision.

LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
Medora (S) Buddy Ranch (PRIVATELY OWNED GENERAL AVIATION)	No preapplication on file.	None.	Not in the National Plan of Integrated Airport Systems - (NPIAS)-therefore, not eligible.
Williston (S) Williston Int'l (COMMERCIAL)	Install apron lighting; install fencing; install visual approach aid and beacon; land for approaches - $212,400; reconstruct and construct apron and taxiway; acquire snow removal equipment - $502,700.	Install apron lighting; install fencing; install visual approach aid and beacon; land for approaches - $212,400.	Other lower priority development will be considered in subsequent years.
OKLAHOMA			
Shawnee (S) Shawnee Municipal (GENERAL AVIATION)	Overlay and mark runway - $360,000; extend runway and lighting; construct taxiway and tunnel - $1,837,667.	Overlay and mark runway - $360,000.	Balance of work will be considered in FY 86.
OREGON			
Newport (S) City of Newport Newport Municipal (GENERAL AVIATION)	Land for clear zones; extend taxiway; install fencing - $906,000.	None.	Low activity location not competitive for funding in FY 85 - possibly FY 86.

(S) = SENATE REPORT

* Denotes programmed project. Other projects in this column are still in formulation and descriptions and/or dollars are subject to revision.

LOCATION AIRPORT NAME TYPE	REQUESTED	PLANNED OR PROGRAMMED	REMARKS
PENNSYLVANIA			
Harrisburg (S) Harrisburg Int'l (PRIMARY)	Construct terminal building - $5,570,518 (multi-year); install runway distance markers - $85,000; rehabilitate taxiway - $252,000; acquire land and remove obstructions - $315,000; acquire snow removal equipment - $321,750.	Construct terminal building - $1,102,678 (FY 85 portion of multi-year); install runway distance markers - $85,000; rehabilitate taxiway - $252,000.	Terminal project will be funded through FY 87. Remaining items will be considered for funding in late FY 85 or in FY 86.
Pittsburgh (S) Pittsburgh Int'l (PRIMARY)	Construct and light apron and taxiway; construct sand storage building - $3,577,950. expand cargo apron - $3,300,000; construct midfield apron - $11,500,000.	Construct and light apron and taxiway; construct sand storage building - $3,577,950.	Remaining items will be considered in subsequent years.
Wilkes-Barre/Scranton(S) Wilkes-Barre/Scranton (PRIMARY)	Extend runway - $12,000,000 (multi-year grant).	Extend runway - $4,200,000 (FY 85 portion of multi-year grant).	Project will be funded over next several years with a combination of entitlements and discretionary.
SOUTH CAROLINA			
Gaffney (S) Cherokee County (New) (GENERAL AVIATION)	Land for approaches; relocation assistance - $708,445; construct runway, taxiway, and apron - $2,450,971; install runway and taxiway lighting - $107,928; install visual approach aid - $6,799; install miscellaneous lighting - $4,707.	None.	Low priority due to low-projected activity. Sponsor considering joining with neighboring localities to construct a regional general aviation facility to serve the entire area.

(S) = SENATE REPORT

* Denotes programmed project. Other projects in this column are still in formulation and descriptions and/or dollars are subject to revision.

POSITIONS

SENATOR ANDREWS: Provide positions for each facilities and equipment activity to correspond with the chart in the justification on page 182. Also provide a comparison of FY 1984 and 1985 positions and amount by activity.

ANSWER: Listed below is the comparsion of estimated F&E positions and amount by activity.

Activities	FY 1984		FY 1985		FY 1986	
	Pos.	Amount (millions)	Pos.	Amount (millions)	Pos.	Amount (millions)
Air Route Traffic Control Centers	137	101.0	142	530.1	185	261.1
Airport Traffic Control Towers	223	353.5	240	400.0	223	500.3
Flight Service Stations	119	102.0	106	142.6	101	-
Air Navigation Facilities	305	87.8	229	148.6	206	165.2
Housing, Utilities, and Miscellaneous	133	57.5	200	126.9	202	192.7
Aircraft and Related Eqpt.	29	24.4	29	1.7	29	16.1
Development Test, and Evaluation	16	23.8	16	10.1	16	11.1
	962	750.0	962	1,360.0	962	1,146.5

The above data is approximate because the employees in the F&E positions have skills which cross budget activities, i.e., a communications technician or engineer during the year could routinely work on communications projects in Centers, Towers, and FSS (the first three activities). A radar technician or engineer could routinely work on the first two activities. Other employees could routinely work in as many as five activities depending on the mix of projects in any fiscal year.

Also, there is not a direct relationship between the dollar amounts and the positions shown since the majority of the employees are performing field installation work on equipment for which funds were appropriated two to three years earlier. This is due to the leadtime required to write specifications, contract for the equipment, have the manufacturer design, build, test, and deliver the equipment to the field.

SENATOR ANDREWS: What differentiates positions shown in this account from those funded in the operations account? For example, why are 822 positions included under the Aviation Standards Flight Program activity as well as in the Flight Inspection, Facilities and Equipment activity. How many flight crew positions are requested in each account?

ANSWER: The 822 positions included in the Aviation Standards Flight Program activity in the Operations appropriation are for ongoing programs in support of the National Airspace System. The positions reflected in the Facilities and Equipment account are associated with flight inspection for commissioning of new FAA facilities. There are 152 flight inspection crew positions in the Operations appropriation and 11 in Facilities and Equipment.

CENTERS

SENATOR ANDREWS: En Route Radar facility modification has been held at less than $1 million since FY 1983 - FY 1985. Why is it necessary to increase that level to over $6 million in FY 1986? How many radomes were replaced yearly since 1982?

ANSWER: The significant increase of $5 million over prior year requests is to initiate the first year efforts to replace 25 of 63 old radomes at long range radar facilities. Since 1982 there have been no radome replacements; however, one radome has undergone major repairs that required the replacement of severely eroded panels; a second radome is currently undergoing similar maintenance repairs; and others have been identified that require either major repairs or early complete replacement.

REPLACE AIRPORT SURVEILLANCE RADARS

SENATOR ANDREWS: Why does the budget propose more "Leapfrog" Airport Surveillance Radars (ASR) replacement in FY 1986 than replacements, and twice as many "Leapfrog" replacements as will be undertaken this fiscal year? How many of the FY 1986 replacements are direct replacement of ASR-4/5/6 with ASR-9's, and how many are leapfrogs?

ANSWERS: The overall Airport Surveillance radar replacement and leapfrog program consists of funding the procurement and installation of 96 ASR systems, 40 to be installed directly at ASR-4/5/6 sites and 56 that will be installed at ASR-7/8 sites. For the same budget year, the leapfrog portion does not totally relate to the replacement program. The leapfrog funding requirements consider the site preparation and construction leadtimes and are driven by the availability of ASR 7/8's. Based on the current delivery schedule of ASR-9's to ASR-7/8 sites and to insure a synchronized reinstallation of surplus ASR-7/8 system at 4/5/6 sites, it is necessary to fund 14 leapfrogs in FY 1985, 27 in FY 1986 and 15 in FY 1987.

All of the FY 1986 Replacement radars are planned to be installed at ASR-7/8 sites.

AIRPORT SURFACE DETECTION EQUIPMENT

SENATOR ANDREWS: How was the decision made as to which airports would require airport surface detection equipment (ASDE)? What is the status and locale of the 17 funded in FY 1985? Will the addition of Bright Radar Indicator Tower Equipment (BRITE) reduce or increase the controller workforce?

ANSWER: The airports identified to receive ASDE equipment qualify based on criteria which identifies airport locations based on airport traffic activity and number of air carrier operations. Candidate airports must have a Category III runway or 180,000 or more itinerant operations, of which 100,000 or more are certificated air carrier operations. These candidate locations are then screened in the Washington headquarters to determine full eligibility and to consider any unique factors pertinent to the individual location.

The FY 1985 funds will fund for 16 operational sites and one support system at the Academy. We expect to award a contract within the next six months for these 17 systems. The BRITE display equipment will provide an aid to the controller in the performance of his duties. This equipment will not increase or decrease the controller workforce.

RESEARCH, ENGINEERING AND DEVELOPMENT OBLIGATIONS

SENATOR ANDREWS: With the FY 1986 Research programs reduced from this fiscal year and 1984, why does travel increase over the 2 years period by 79 percent.

ANSWER: The increase in travel is primarily attributed to the increased activity associated with the Host and Advanced Automation System development activities. By the end of FY 1984 the Host Design competition phase was underway and the Advanced Automation System design competition phase contracts were awarded. These activities required extensive travel to the field and were reflected in our travel budget. As these development activities approach completion our overall Research, Engineering and Development travel requirements will decrease.

FLIGHT SERVICE STATION RESEARCH ENGINEERING AND DEVELOPMENT

SENATOR ANDREWS: What impact will the $2.75 million decrease in research for Flight Service Stations have on both the testing of Model 1 and development of Model 2? Will the requested $2.354 million be used for the privatization study?

ANSWER: The $2.75 million decrease in research for Flight Service Station's will not impact Model 1 testing or Model 2 development. The development of enhancement packages for the Model 2 System will be curtailed. The requested $2.354 million is for in-house costs for the laboratory at the Technical Center. Based upon the outcome of the privitization study, the staff will either work on enhancements or discontinue operation of the facility. The privatization study is being funded within the FY-85 Operations budget.

AIRCRAFT LOAN GUARANTEES

SENATOR ANDREWS: Which carrier(s) defaulted on loan guarantees during FY 1984? No defaults are projected in the budget for FY 1985. What is the current likelihood of defaults this fiscal year? Will a supplemental be necessary in FY 1985 to cover past defaults?

ANSWER: Continental and Excellair (formerly Air U.S.) defaulted on guaranteed loans during FY 1984.

There is some likelihood of additional defaults in FY 1985. However, since FY 1985 is over half complete and approximately five months normally elapse between the event of default and payment by the Federal Aviation Administration (FAA) no more than one settlement is likely in the remainder of FY 1985.

A supplemental could be needed in FY 1985 to cover expenses of past defaults. At the beginning of FY 1985, FAA had $667,000 in liquidating cash to repay borrowings from the Treasury. $186,000 remains available in early April 1985. That amount will be adequate to cover expenses projected for the remainder of FY 1985 if, as expected, the planned sale of the Air Florida collateral to Midway Airlines can be completed at an early date.

SYSTEM CAPACITY STUDY

SENATOR ANDREWS: The Subcommittee was told last September that a contract was being let to let to assess the air traffic control system and its capability to meet current and future demand. What information can be provided at this time?

ANSWER: The contract for the air traffic control (ATC) system capacity study was signed September 17, 1984, with Analytical Technology Application Corporation (ATAC), of Mountain View, California.

The study will produce a sector-by-sector model of the ATC system, a network model of the entire ATC system, and a set of recommendations regarding distribution of traffic throughout the system.

Current work is focused on the development of a sector workload model. This model will be presented to FAA headquarters on April 24. From that meeting a field testing schedule will be devised.

The next phase of work will analyze multi-sector airspace and will compare workload to capacity.

A parallel effort has been the design of an appropriate data base to drive these models.

FACILITIES AND EQUIPMENT OBLIGATIONS BY OBJECT CLASS

SENATOR ANDREWS: Provide an explanation of the obligation level increases in FY 1986 over FY 1984 of:

358% for Equipment
46% for Supplies and Materials
73% for Other Services
42% for Travel

ANSWER: Funds appropriated in FY 1985 and FY 1986 are considerably higher than those appropriated in FY 1984 and prior years which results in a significant increase in projected obligations for FY 1986 versus FY 1984. Also the FY 1984 actual obligation total was significantly lower than planned since one major contract for $163 million originally scheduled for obligation in FY 1984 was awarded five days into the next fiscal year.

ILS/MLS INSTRUCTIONS

SENATOR ANDREWS: Provide a status report on instructions contained on Page 29 of Senate Report 98-561 regarding Instrument and Microwave Landing Systems.

ANSWER: We plan to commission the glide-slope at Corvallis, Oregon in December 1985; the instrument landing systems at Huntsville-Madison County Jetport, Alabama, September 1985, at Manitowoc County Airport, Wisconsin, in December 1985, and at Double Eagle II Airport, New Mexico and Brookhaven Municipal Airport, New York, in late calendar year 1986. A microwave landing system is proposed to be installed at Flagstaff, Arizona in late calendar year 1986. The requested report on microwave landing systems was transmitted to the Committee by letter dated February 20, 1985.

WEATHER RESEARCH

SENATOR ANDREWS: Provide an update on the weather research studies mentioned on page 31 on Senate Report 98-561.

ANSWER: A notice has been sent to the Bureau of Reclamation informing them of the FAA intent to transfer $700,000 to the Bureau to cover the FAA's FY-85 research activities at the University of North Dakota. These are the provision of a Doppler weather radar and an instrumented Citation II aircraft to support the FAA's terminal Doppler test bed at Memphis and the performance of icing studies to support the development of an icing algorithm for NEXRAD. We are currently awaiting a response from the Bureau.

Concurrent with the letter from our Acquisition and Materiel Service to the Bureau of Reclamation, we are preparing the necessary paperwork to contract directly with the University of North Dakota. This approach will be taken if the above approach does not work out.

MEDICAL KITS

SENATOR ANDREWS: FAA issued a notice of proposed rulemaking on medical kits. When will the final rule be published? In what type of in-flight medical emergencies would kits be used, and by whom? Does the FAA rule include a "Good Samaritan" provision to limit liability? If not, why? Does the department support legislation in this area, such as H.R. 1647 introduced last month?

ANSWER: The Notice of Proposed Rulemaking (NPRM) was published in the Federal Register on March 14, and the comment period closes on July 12. The nature and extent of the comments FAA receives will largely determine the timing of the final action in this rulemaking.

The types of in-flight emergencies for which the kits would likely be used to provide basic life support include myocardial infarction, severe allergic reactions, acute asthma, insulin shock, protracted seizures, and childbirth. FAA has requested public comment on a number of issues not addressed in the NPRM, such as who should be considered qualified to use the proposed kit, and the user's licensing requirements.

The FAA proposal does not include a Good Samaritan provision, because that would be beyond the scope of our regulatory authority. We have not taken a position on the appropriateness of Good Samaritan legislation, because this issue has been determined to be within the purview of the Department of Justice.

UNDERREPORTED NEAR MIDAIR COLLISIONS

SENATOR ANDREWS: The Subcommittee heard testimony at the Secretary's overview hearing regarding the Department's response to the January 1985 letter from the Aviation Consumer Action Project about underreported near collisions over the past two years. Of the 63 reports referred to in the letter, 18 remained under investigation. What is the current status of those? Of the 44 closed cases was the FAA in agreement that the incidents should have been reported? What specific changes in reporting requirements has FAA put in place to ensure accurate records of incidents?

ANSWER: Of the 63 reports referred to in the Aviation Consumer Action Project letter a total of 15 remain in the open status. These are reports which, despite our best efforts, cannot be completed due to a lack of information. Although we plan no further action on these incidents we intend to count them as near midair collisions in our data system.

With regard to the closed cases, it has been our policy that all reports should be investigated and entered into our data system. There have been no specific criteria issued regarding what should or should not be reported by airspace users although we have maintained a classification scheme to designate those events which are of a more hazardous nature. Generally, the FAA encourages the reporting of any event which the operator feels is significant.

The FAA has carefully reviewed its reporting and record keeping procedures and we believe that some changes have merit. First, we intend to revise the definition of a near midair collision to include all unplanned events of less than 500 feet reported by pilots, all operational errors which bring aircraft within 500 feet, and all pilot deviations which bring aircraft within 500 feet. Events which result in separations of 500 feet or more will be retained in their respective data bases, but will not be called near midair collisions. We have already discussed this proposal with airspace user groups and we have solicited their comments. When we finalize this definition we intend to revise our agency directives and strengthen the guidelines for investigating such events. We believe these actions will result in a data base which more realistically reflects the collision hazard in the national airspace system and will eliminate the potential for underreporting.

GALAXY AIRLINES

SENATOR ANDREWS: What response does FAA make to allegations of inspector impropriety regarding Galaxy Airlines?

ANSWER: We have investigated and found no inspector impropriety regarding Galaxy Airlines. In regard to allegations against a retired FAA inspector, an investigation is ongoing by the Department of Transportation's Office of Inspector General.

DULLES ACCESS ROAD

SENATOR ANDREWS: Has the FAA been involved in any planning or discussion concerning developing a rail link between Dulles and the West Falls Church Metro Station?

ANSWER: The FAA has, throughout Dulles' history, preserved right of way along the Dulles Access Highway and within the airport itself for the construction of a rail link. Over the past year, FAA has been approached by two groups who have expressed interest in the development and operation of such a rail line as a private venture. Most recently, FAA has been working with UMTA in carrying out the requirement contained in the CAB sunset legislation to study the feasibility of a rail line between Dulles and the West Falls Church station on the Metro Rail System.

SENATOR ANDREWS: What is the FAA policy towards a private development of rail in the corridor?

ANSWER: FAA is cooperating with UMTA to explore the possibility of private development of rail facilities in the Dulles corridor. The FAA does not yet have a view on whether or not such private development is practical but is, in general, supportive of the addition of rail transit in the corridor.

SENATOR ANDREWS: Does excess land exist along the access road or at the airport that could be used for development to offset costs of a rail link?

ANSWER: There is no "excess land" at Dulles Airport and the FAA is not open to the concept, as apparently proposed by at least one of the rail line proponents, that they be granted extensive development rights on the airport as part of an overall rail development package. With respect to the Access Highway, it has been suggested that certain development could take place within existing rights of way at interchange points, including the use of certain air rights. The FAA is open to such possibilities on the condition that they not inhibit the transportation capabilities of the corridor, both highway and rail, and that they be in accord with the land use and zoning controls of the local jurisdictions.

SENATOR ANDREWS: The FAA controls a considerable amount of unused land at the Dulles Airport. What is planned for the unused land? Is additional parking being considered? Is there currently adequate parking at Dulles? Does the FAA have a policy of encouraging or discouraging driving to and parking at Dulles?

ANSWER: The future uses of all of the land at Dulles is defined in the Airport's Master Plan, a major update of which is now approaching completion after extensive coordination in the Washington region. Portions of the not-yet developed Dulles land are planned for additional airport facilities, including future runways, buildings, and public parking expansions as activity continues to increase. Still other of the Dulles land was acquired to provide an environmental buffer between the airport facilities and the surrounding communities and that concept remains in the current Master Plan update. There is currently a sufficient amount of public automobile parking at Dulles, by virtue of the opening in January of this year of an additional 1300 public spaces bringing to 6000 spaces the amount of public parking available. An additional 1000 spaces is to be added during 1985, with a projected completion date for that construction of November 1985. Given the very strong growth trend at Dulles, still additional parking expansion should be undertaken in the very near future. FAA provides good, dependable public ground transportation to and from Dulles through its "Washington Flyer System" which includes motor coach and limousine service to over 60 points in the metropolitan area. In addition, FAA strives to provide adequate public parking facilities for those 22 percent of our customers at Dulles who choose to park their cars at the airport.

SENATOR ANDREWS: With the reduction of High Occupancy Vehicle (HOV) hours on I-66, traffic can be heavy between 3:30 p.m. and 4:00 p.m. and between 6:00 p.m. and 7:00 p.m. Have there been complaints of delays for airport passengers at these times? Is travel time from downtown adversely affected at these times?

ANSWER: We have received very few complaints from airport passengers because of delays on I-66 but we are well aware of the phenomena which occurs on that road just before and just after the designated HOV hours. Travel time from downtown Washington is adversely affected to some degree by that concentration of traffic on I-66.

SENATOR ANDREWS: Has the FAA proposed any changes in the current rules on I-66?

ANSWER: FAA has proposed no changes to the current I-66 rules.

NAVIGATION SYSTEMS

SENATOR ANDREWS: What is the status of plans to extend LORAN-C to the midwest?

ANSWER: The Federal Aviation Administration (FAA) intends to request approximately $43.0 million in the Fiscal Year 1987 (FY-87) budget to provide long-range navigation (LORAN-C) coverage across the 48 contiguous states. However, this request will be subject to a benefit/cost analysis and the status of GPS (Global Positioning System).

SENATOR ANDREWS: What are the costs and benefits of such an extension?

ANSWER: The results of an early study indicate that the costs to procure and install LORAN-C stations to provide coverage for the midcontinent gap would be approximately $43.0 million. Operating costs and benefits are not as well defined, but ongoing studies indicate that there is a positive benefit to providing the midcontinent LORAN-C coverage. The benefits are due to direct point-to-point flights, low-altitude coverage, and nonprecision approaches at many airports that otherwise could not qualify for an instrument approach. Estimates for operating costs and benefits will be determined and a benefit/cost analysis will be conducted.

SENATOR ANDREWS: What interest has there been in using LORAN-C for airport approaches.

ANSWER: There has been considerable interest from individual users and state aviation agencies for approval of nonprecision approaches using LORAN-C.

SENATOR ANDREWS: Could LORAN-C or NAVSTAR in the future, reduce the cost of flying by permitting more direct routings, especially in uncongested airways?

ANSWER: Yes. Studies have shown that direct flights can save up to 5 percent of the fuel costs. Some of these savings are being realized now using LORAN-C, OMEGA, INS, and VOR/DME RNAV equipment.

SENATOR ANDREWS: When is NAVSTAR expected to be available for commercial aircraft?

ANSWER: According to the current schedule, the Global Positioning System (GPS) will be available for civil en route and oceanic use in 1988.

SENATOR ANDREWS: Would the NAS Plan be compatible with navigation systems that permitted point to point flights? Would use of improved navigation systems for direct routings conflict with the airways system now employed?

ANSWER: The current national airspace system permits direct point-to-point flights when conditions permit and flights can be filed direct above flight level 390 (FL 390). The planned advanced automation system is being designed to permit the most economical en route flight paths, and this will include direct routings to the extent allowable by traffic densities.

ADVISORY COMMITTEE

SENATOR ANDREWS: What is the funding estimate in FY 1985 and 1986 for the FAA Advisory Committee? How many meetings have been held since its establishment on August 15, 1983? Last year, the Subcommittee was told that the Advisory Committee would provide an independent assessment of the objectives, direction, and balance among the major portions of the modernization program, particularly in cost-effective planning aspects; independently judge the engineering and development program and implementation plan in terms of meeting future needs; and identifying potential applicability of university and industry research to FAA's needs. What recommendations have been made and implemented?

ANSWER: Our plans to implement the Advisory Committee have been held in abeyance pending the completion of a review of the requirements for such a committee. We have not included funding requirements for the committee in our FY 1985 program or our FY 1986 request.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

SENATOR D'AMATO: I understand that the Department of Transportation is considering the FAA's proposed regulations on aircraft fueling. This proposal places the burden on airport operators, such as the Port Authority of New York and New Jersey, of the responsibility and liability attached to fueling operations performed by fixed base operators.

Congress has made it clear in the Aviation Drug Trafficking Control Act of 1984 (PL 98-399), that this is not an appropriate responsibility for airport operators. In addition, the National Transportation Safety Board has recommended that the FAA license aircraft fuelers. In light of the foregoing, why has the FAA gone forward with these proposed regulations?

ANSWER: The FAA has no plans to significantly increase or change the level of responsibility which airport operators have for fueling on their airports. Section 139.51(b) of the Federal Aviation Regulations (FAR), adopted in 1972, provides general requirements for fueling operations on certificated airports. The section requires that the certificate holder show that "it (or its tenant), as the fueling agent, has a sufficient number of trained personnel and procedures for safely storing, dispensing, and otherwise handling fuel, lubricants, and oxygen on the airport . . . ." This rule does not require that airport operators provide extensive, day-to-day control over tenant fuelers. The FAA believes that fueling agents have the fundamental responsibility for providing clean, dry fuel. Further, the pilot in command is ultimately responsible for the safety of the flight, and the air carrier, too, is responsible to ensure that the flight is made safely. Each may be held accountable for fueling safety problems in appropriate cases. Nevertheless, the airport operator has an oversight responsibility to assure that safe airport operations are conducted. This includes general oversight of tenant fuelers to determine that they have the basic personnel and procedures needed to conduct safe operations. It is recognized that not all certificate holders may have the expertise, training, or personnel available to monitor day-to-day tenant fueling operations. That is not required under the current regulation, nor does FAA intend to impose such a detailed monitoring requirement. The FAA does not believe that requiring airports to provide general oversight of fueling activities places an undue burden on them.

The FAA is aware of the concern expressed by airport operators and by the conferees to the Conference Report for the Aviation Drug-Trafficking Control Act regarding the oversight responsibilities of certificated airports over tenant fueling operations. We are also cognizant of the conferees' desire that, to the maximum extent feasible, FAA encourage voluntary industry efforts to address these concerns. In November 1984 the FAA held two meetings with various groups who represent airport managers, fixed base operators (who provide many of the tenant fueling services), pilots, state governments, and others. The major concern was the extent to which certificate holders should be responsible, under the FAR, for tenants' activities, and the complementary question of whether tenant fuelers should be certificated or otherwise directly regulated by the FAA. The meetings also revealed that the industry continues to develop standards and procedures which should reduce fueling safety hazards. The FAA has drafted an NPRM, currently in executive coordination, which deals with these issues.

To regulate tenant fuelers directly would be a major undertaking, requiring the development of standards and procedures for certification and inspection of many fuelers. This would be expensive for both the industry and the FAA. The current industry safety measures and the oversight by airport operators provide a sufficient level of safety at a relatively low cost for all concerned. Through lease agreements the airports can recover any costs of oversight, just as they can recover any other cost of managing property which they lease out. The FAA believes that at this point, the oversight provided by the airport operators is the least burdensome and most economical means for the industry as a whole of providing an appropriate level of safety.

SENATOR D'AMATO: The proposed regulations would only affect certificated airports and would not include general aviation airports. While there are about 600 certificated airports in the nation, there are more than 6,000 general aviation airports. Why has the FAA sought to impose these proposed requirements only on certificated airports?

ANSWER: The FAA does not regulate fuelers at small, uncertificated airports, just as Congress did not empower FAA with the same oversight responsibilities at these airports as was provided for certificated airports under §612 of the Federal Aviation Act. Unlike the certificated airports, such airports do not serve air carrier aircraft with a seating capacity of more than 30 passengers, and hence, the volume of passenger activity is considerably lower than at the certificated airports. Because of the reduced exposure to the traveling public, the FAA does not consider fueling operations at these low activity airports to constitute a safety problem warranting regulation and the corresponding burden this would involve. The voluntary industry measures mentioned above continue to provide for improvements in the safety at these airports.

SENATOR D'AMATO: The FAA does not hold airport operators responsible for the safety of aircraft or for the safety of aircraft mechanical repairs and maintenance that take place at airports. Airport operators are in no better position to oversee these activities than they are to oversee the training and performance of those who undertake fueling operations. Doesn't the FAA have the responsibility to directly regulate the activities of fuelers? How do the FAA's safety-related duties in the area of aircraft repairs and maintenance differ from its similar responsibilities in the area of fueling?

ANSWER: The FAA has the responsibility to regulate when it identifies a safety problem significant enough to warrant the burden involved. The FAA has not identified a need to directly regulate fuelers.

Airport operators are responsible for the safety of aircraft in some areas, for instance, in the areas of snow removal, lighting and marking, and crash, fire and rescue service. While it is true that airport operators are not required by the FAA to oversee aircraft maintenance on their airports, such activities are fundamentally different from fueling activities. Unlike maintenance facilities, airport fueling facilities are physically part of the airport itself. The fuel farms are dug into the ground, and not infrequently the tanks and other fixtures are owned by the airport. Grounding rods and connectors are built into the asphalt or concrete of the ramps by the airport operator. Further, maintenance mainly involves the action of the individual in performing his or her tasks, and the FAA closely regulates the individual. Fueling mainly involves the facilities and fixtures, and the overall practices of the organization as a whole; therefore, the FAA focuses on those who oversee the fixtures and organization. Fueling activities have the potential for catastrophic loss of life and property from explosion or fire. The airport operator's possession and control of the airport grounds give it power and responsibility not to permit such operations without using due care to ensure that the fuelers have the basic procedures and training necessary for safety.

SENATOR D'AMATO: The FAA's Fiscal Year 1986 Budget does not include funding for the Essential Air Service (EAS) program. The North Country of New York State has been successfully provided with air transportation through this program. Brockway Air has made a significant investment in both aircraft and ground facilities while receiving federal subsidies that have declined each year since 1982, when Brockway began serving North Country EAS communities.

The EAS program was intended to continue through 1988 as per its initial mandate when the airline industry was deregulated. Brockway's entire program to rebuild service to New York communities was predicated on this assumption. At this point, Brockway has made excellent progress and has the enthusiastic support of the communities it serves; however, it is not yet able to continue to provide current levels of service without assistance of the EAS program. How will the communities in upper New York State, now served under the EAS program, secure reliable air service if this program is terminated before 1988?

ANSWER: EAS was formerly a Civil Aeronautics Board function which was transferred to the Office of the Secretary of Transportation (OST). OST has advised the Federal Aviation Administration (FAA) that of the five communities being served by Brockway Air under the EAS program (Saranac Lake-Lake Placid, Messina, Ogdensburg, Plattsburgh, and Watertown), two (Saranac Lake-Lake Placid and Plattsburgh) have made sufficient progress toward achieving self-sustaining service that it is likely that Brockway Air will continue to serve them with or without EAS subsidy. The others have very low passenger usage and will very likely lose service regardless of whether the EAS program is terminated in 1988 or earlier.

QUESTIONS SUBMITTED BY SENATOR CHILES

FAA NOISE RULES

SENATOR CHILES: Mr. Administrator, as you know, an amendment was added to the 1985 continuing resolution, P.L. 98-473, that further clarified the good faith efforts criteria included in the 1979 noise act. Essentially the amendment required time exemption to be given to non-complying aircraft if they entered into a contract for a hush kit with a bonafide hush kit manufacturer. The amendment, as you may remember, related to aircraft using Miami and Bangor International Airports.

Mr. Engen, how many time extensions were given in order to give the many small Latin and South America carriers additional time to comply?

I noticed in Monday's Aviation Daily that the U.S. Court of Appeals for the District of Columbia last Friday that FAA's application of the criteria for noise exemptions "can only be described as grossly inconsistent and patently arbitrary." What can you tell us about the court's finding? Does FAA plan to appeal the court decision?

ANSWER: By time extension, I understand you to mean exemptions from the January 1, 1985, compliance deadline until the exempted aircraft can be brought into compliance. Thirty-two petitions were received by FAA under the provisions of section 124 of the Continuing Resolution for Fiscal Year 1985 (Public Law 98-473) for exemptions from the January 1, 1985, compliance deadline. Of those 32, 25 limited exemptions were granted, the last of which was issued on January 11, 1985. Eleven of those 25 exemptions were issued to smaller Latin and South American operators.

FAA has no plans to appeal the March 29, 1985, decision of the United States Court of Appeals for the District of Columbia Circuit. FAA is currently reviewing that decision to determine its effect on all of the cases that were before the court. We will follow carefully the court's admonition to consider petitions which follow from its decision in a consistent manner, and any deviations from prior rulings will be carefully reasoned and fully explained.

FAA SAFETY STANDARDS ON SMALL AIRCRAFT

SENATOR CHILES: GAO and the National Transportation Safety Board (NTSB) have reported that FAA airworthiness standards, crash standards and the operating rules for small aircraft with nine or fewer seats are significantly less stringent than those established for larger aircraft. In the 1985 report, the committee directed the FAA to take steps to improve safety standards and operating rules for small aircraft which NTSB estimated could reduce fatalities by 20 percent. What progress has FAA made to implement GAO, NTSB and committee directives to improve air safety for small aircraft?

ANSWER: In response to these recommendations, the FAA prepared a study which identified major differences in regulations between small and large air carrier airplanes in three areas: certification, operations and maintenance. In addition, an analysis of small air carrier airplane accident data for 1980-1982 was conducted. Major findings include the following:

- o With the exception of airplane performance (the requirement for engine out stay-up capability during takeoff), the analysis showed no evidence that small air carrier airplane accidents can be attributed to differences in regulations between large and small air carrier airplanes.
- o The majority of the small air carrier airplane accidents (1980-1982) were due to the failure of pilots/operators to follow current regulations/ procedures or mechanical failures/malfunctions of an isolated nature.
- o The study recommended that increased emphasis should be placed on compliance with current regulations/ procedures including checklist, airport, gross weight, visibility, fuel, and VFR minimum altitude requirements.

In addition the FAA has the following airworthiness projects underway for small aircraft:

- o Small Airplane Airworthiness Review Program,
- o Review of airworthiness standards applicable to rotorcraft,
- o Proposal for a new category of airplane that would carry up to 19 passengers,
- o Proposal to amend FAR Part 23 to include empennage fatigue requirements,
- o Proposal to amend Part 23 to include requirements for crash-resistant fuel systems, and
- o Notice of proposed rulemaking for installation of shoulder harnesses on newly manufactured small airplanes.

The FAA will continue to monitor the safety of small air carrier aircraft and will take whatever steps are necessary to ensure their continued safe operation.

RECOVERY FROM PATCO STRIKE

SENATOR CHILES: In prior testimony, FAA has stated that before the August 1981 strike, approximately 9 percent of the controllers worked over a 40-hour week, and that such overtime was unscheduled and due to unpredictable events such as bad weather. Immediately after the strike, many controllers had to work extensive amounts of overtime. FAA has testified since then that the average workweek is steadily coming down, and that generally no one is scheduled for or must work overtime. What portion of the controller workforce is currently working more than 40-hour weeks?

ANSWER: Most recent data indicates that 13 percent of the controller workforce worked more than 40 hours during the week.

SENATOR CHILES: FAA testified in October 1984, before the Senate Aviation Subcommittee, that overtime declined 29 percent when comparing the first 7 months of 1983 to the same period in 1982, and declined 6 percent when comparing that 7 month period in 1984 to 1983. FAA anticipates that overtime will continue to decrease as the agency reaches its staffing goal. However, we understand that overtime is rising for certain segments of the controller work force; for example, non-supervisory controllers in centers worked more overtime in 1984 than in 1983.

In light of increases in staff levels, why is overtime increasing? What does this increase indicate?

When will FAA be fully recovered from the PATCO strike with a fully experienced and trained work force?

ANSWER: Our data indicates that total overtime used in the centers declined in FY 1984 compared to FY 1983, as did overtime used by non-supervisory controllers. However, the decline was slight compared to the decreases achieved the previous year. There are several reasons for this. First, virtually all controllers were provided with at least two weeks of annual leave during the prime vacation season in FY 1984. Second, most supervisors who had been working as controllers returned to their supervisory duties, and 351 center controllers moved into staff and supervisory positions in FY 1984. Finally, activity increased very rapidly in FY 1984, while new patterns of flight associated with air carrier hubbing practices exacerbated traffic peaking problems.

The FAA is fully recovered form the PATCO strike. Full recovery was achieved in FY 1984 when activity reached 100 percent of prestrike levels and all strike-generated restrictions were removed. What constitutes a fully experienced and trained work force is a matter of definition. Before the strike about 20 percent of the controllers were in some stage of training compared to about 30 percent now. In the terminal option we have achieved the required number of operational controllers, and in the centers we expect to reach that goal by the end of FY 1986, but it will be several years before we reach prestrike experience levels.

QUALIFICATIONS OF SAFETY INSPECTORS

SENATOR CHILES: For hiring inspectors, FAA prescribes minimum levels of general and specialized experience. Further, to ensure high quality performance and to remain current with the "state-of-the-art," FAA requires certain technical and management training.

Do the 166 recently hired inspectors have the type of general and specialized experience that FAA generally would like its new inspectors to have? We were informed by the Miami Flight Standard District Office that 58 percent of the new primary maintenance inspectors are unqualified as of January 1, 1985. Has FAA in the past, and does FAA generally prefer to hire inspectors with more experience than those hired during the past year?

ANSWER: All newly hired aviation safety inspectors are required to meet the general and specialized qualification requirements. After entering on duty, new aviation safety inspectors must successfully complete an indoctrination course and other specialized training courses prior to performing certain inspector duties. Aviation safety inspectors are not considered to reach their full performance level until, at least, successful completion of several specialized training courses which usually take approximately 18 months to 2 years to complete. With the number of newly hired inspectors during the past year, it is reasonable to expect that the 58 percent of maintenance inspector's you identified in the Miami District Office did not receive all the job required training.

FAA did not lower the qualification standards to hire the mandated 166 new aviation safety inspectors during the past year.

SENATOR CHILES: Have all of these new inspectors completed the FAA required job training. If they haven't, why not? Are they scheduled for these courses? If not, why not? On the average, how long did the new inspectors have to wait before taking their basic FAA indoctrination course? What is FAA's policy concerning how soon after joining FAA inspectors should receive indoctrination training?

ANSWER: As stated in the answer to the previous question it is reasonable to expect that all the new inspectors have not completed all the FAA job required training since it takes an average of 18 months to 2 years to complete. We can safely say at this time though that by August 1985, all air carrier inspectors (operations and maintenance) brought on board to date since February 1984, will have received their basic indoctrination. Since we have concentrated so heavily on indoctrination training during FY-85, the FY-86 training program should allow the scheduling of other job required courses not obtained in FY-85.

Because of the influx of new inspectors, there have been delays in obtaining indoctrination for them. We estimate that it takes an average of 6 months for a newly assigned inspector to attend basic indoctrination. Our current policy states that a new inspector should receive indoctrination and one, or sometimes two (depends on inspectors discipline) other job required course(s) within one year of assignment.

SENATOR CHILES: What type of adjustments to the training program did FAA make to accommodate the large surge in new hires? Were the changes made in anticipation of the surge or after the new inspectors were on board? What training program innovations were made or are planned to get new hires quickly qualified to perform inspections?

ANSWER: In March 1984, right after Secretary Dole's direction to hire the additional air carrier inspectors, we made two types of adjustments to the FY-84 training program. We increased class sizes and added additional classes of the indoctrination courses. Because many inspectors came on board near the end of FY-84, we had to make the same adjustments to the already established FY-85 program. These adjustments were made in anticipation of the surge of new inspectors; however, many of the additional classes were added after the inspectors came on board.

We plan to review our training identification/scheduling process to ensure it allows the most timely scheduling of training once identified.

SENATOR CHILES: The aircraft industry is constantly developing and placing into operation substantial advancements in electronic equipment, including computers, electronic cockpits, and sophisticated navigational and communication equipment. How is FAA's training program keeping the inspectors current with these advancements?

ANSWER: The Office of Airworthiness, in conjunction with industry, has recently completed a series of technical courses and seminars to keep airworthiness avionics personnel current with state-of-the-art advancements and more are planned.

In 1983, 51 airworthiness avionics inspectors and engineers attended a special Boeing 757/767 Digital Avionics Systems 3-week training course arranged by the Office of Airworthiness.

In FY 83 and 84, the Office of Airworthiness with industry support completed three, 3 1/2-day Loran-C/VLF Omega Navigation Systems Workshops.

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In 1984, the Office of Airworthiness in conjunction with three electronic flight instrument systems (EFIS) manufacturers (Bendix Avionics, Collins Avionics, and Sperry) completed seven 3-day Electronic Flight Instrument System Workshops.

On October 1, 1985, we will provide mandatory state-of-the-art digital avionics systems training to 15 airworthiness avionics inspectors. This will be the first class of a series of 5-week classes to be provided by the Boeing Aircraft Company, a successful bidder. The course will be provided to approximately 150 airworthiness avionics inspectors, and will consist of 5 weeks of intensive training on the principles and application of digital avionics related to actual aircraft digital electronic systems and related computer programming. Course completion will enable the airworthiness avionics inspector to make timely and effective decisions regarding installations, operation, and maintenance of state-of-the-art digital avionics systems. Our goal is to have 10 classes in 1985 and 1986.

We are working actively with personnel of our FAA Academy, Oklahoma City, in the updating of all of our avionics courses in our continuing efforts to provide state-of-the-art training to our airworthiness avionics inspectors.

SENATOR CHILES: During 1983 and 1984 what were the experience and training of the principal operations, maintenance, and avionics inspectors assigned to Air Resorts, Provincetown-Boston Airlines, American Central, and Galaxy Airlines? In addition to their principal duties for these carriers, what other duties were they responsible for and what percent of their time is spent on these other duties? Were their experience and training generally of the level expected of a principal inspector? Were they devoting an adequate amount of time to these carriers?

ANSWER: The overall experience level of the inspectors assigned to these carriers during 1983 and 1984 ranged from 4 to 24 years with the agency and 1 to 15 years as a principal inspector. All of these inspectors were fully qualified to perform duties and had received required training as defined in appropriate handbooks.

All were assigned other duties according to the demands and complexity of the certificate holding office. Examples are other air carrier certificates, airman certification work, repair stations, mechanic schools and associated demand work. The amount of time spent on these duties based on estimates from the inspectors range from 30 to 95 percent. These figures are subjective in nature due to day-to-day changes to the environment and reflect definite peaks and valleys in the amount of time dedicated to a carrier depending on specific circumstances such as special investigations, public interest, the addition of new aircraft, etc. For example one principal operations inspector was assigned 8 other Part 121 carriers and performed 2 airline certifications while assigned to Galaxy, which he estimated took approximately 95 percent of his time during this period. On the other hand, inspectors assigned to Provincetown-Boston (PBA) spent 100 percent of their time on duties related to this carrier during the special inspections of 1984.

A review of the experience levels and training accomplishments for all principal inspectors assigned to those carriers indicates that, without exception, their backgrounds met or exceeded the levels expected for specialists of this type.

The amount of time spent by inspectors working with specific operators is subject to many factors. Demand work since deregulation has increased and may have influenced surveillance activities in some instances. New national guidelines to set priorities have been drafted and should serve to insure emphasis on, and proper staffing for, surveillance functions.

It should be noted that the FAA is taking action to insure proper allocation of inspector resources and to support staffing adjustments if necessary. Project SAFE will provide specific job task analysis information pertaining to field inspector's duties. Additionally, several actions pertaining to inspector training have been initiated and revisions and rewrites of guidance and reference material are underway.

QUESTIONS SUBMITTED BY SENATORS STENNIS AND COCHRAN

SENATOR STENNIS AND SENATOR COCHRAN: We have been informed that the explanation now given by the FAA for its withdrawal of the exemption is that it never had the statutory authority to grant such exemptions in the first place. How can the agency justify this explanation in light of the Federal Register Notice mentioned earlier? As we understand it, even the FAA's Chief Counsel's office is of the opinion that the Administrator has sufficient statutory authority to grant limited exemptions under Section 313 of the Federal Aviation Act.

ANSWER: In order to properly answer the next two questions, it is important to put into perspective certain historical aspects of the airport certification issue.

In 1970, Congress adopted Section 612 of the Federal Aviation Act of 1958 (FA Act), which empowered the Administrator of the Federal Aviation Administration (FAA) to issue airport operating certificates to airports serving Civil Aeronautics Board (CAB) certificated air carriers and to establish minimum safety standards for the operation of those airports. This legislative action was sponsored by certain industry organizations in the interest of aviation safety. In 1972, the CAB revised its regulations to require air carriers, operating aircraft configured with more than 30 passenger seats and a maximum payload capacity of more than 7,500 pounds, to obtain a certificate of public convenience and necessity (CPCN). However, the CAB did not cancel existing CPCN's of air carriers that operated smaller aircraft. In this same year, the FAA implemented Section 612 of the FA Act by adopting Part 139 of the Federal Aviation Regulations (FAR). Thus, since 1972 the FAR required airports that serve CAB-certificated air carriers, regardless of the size of the aircraft operated, to be certificated in accordance with Part 139. This included all air carrier operations conducted with aircraft configured with more than 30 seats.

In 1974, the FAA adopted FAR Section 121.590 which prohibited CAB-certificated air carriers from operating into an airport unless the airport was certificated under Part 139. Section 121.590 was adopted to preclude air carriers from subjecting uncertificated airport operators to violations of

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Part 139. FAR Part 121 addresses the responsibilities of air carriers, and FAR Part 139 addresses the responsibilities of airport operators.

In 1978, in order to align its air carrier certification and operating rules with then current CAB rules, the FAA adopted Special Federal Aviation Regulations (SFAR) 38. SFAR 38 required air carriers operating aircraft with more than 30 passenger seats and a maximum payload capacity of more than 7,500 pounds to be certificated and to operate under FAR Part 121. Air carriers operating smaller aircraft were required to be certificated and to operate under FAR Part 135. At this point the CAB and FAA regulations were in concert.

However, as one of the first major changes in response to the Airline Deregulation Act of 1978 (ADA), the CAB amended its economic regulations in May 1979 so that only air carriers operating aircraft with more than 60 passenger seats and a payload capacity of more than 18,000 pounds needed to be CAB "certificated." Once again the CAB did not cancel existing certificates of air carriers operating smaller aircraft. Therefore, a situation existed whereby only Part 139-certificated airports could serve an air carrier holding an existing CAB certificate, regardless of the size of the aircraft being operated, while airports serving new entrant air carriers with larger aircraft (31 to 60 seats) that were not CAB certificated were not required by the Act or FAR Part 139 to be Part 139-certificated airports.

The FAA became concerned that the then current Part 139 did not require many of the airports serving the "new entrant" air carriers operating the larger aircraft (31 to 60 seats) to be Part 139 certificated, although the traveling public was likely to assume that the enhanced level of safety and service would be provided at those airports.

To resolve these inconsistencies, the FAA initiated two actions. First, the FAA recommended to the appropriate congressional committee that Section 612 of the FA Act be studied and revised as necessary to de-link airport certification from CAB certification. This action was appropriate and necessary to continue the effectiveness of Section 612 when the CAB eventually sunseted. The second action involved a policy decision by the FAA Administrator to maintain consistency by keeping in effect the requirements of airport certification and air carrier operations that had existed since 1972 and 1974. These requirements basically specified that airports serving air carriers that operated aircraft with more than 30 seats (previously requiring CAB certification) be certificated under Part 139 and that FAR Part 121 air carriers operate only into Part 139 certificated airports. This policy decision, issued on January 20, 1982, stated, in part, "Part 139 will continue to be applicable to airports serving air carriers operating under a CAB certificate (over 60 seats), and FAR Section 121.590 will continue to require air carriers operating under Part 121 (over 30 seats) to conduct operations into airports certificated under Part 139."

On September 3, 1982, Congress enacted the Airport and Airway Improvement Act (Public Law 97-248). This law empowered the Administrator to issue airport operating certificates and to establish minimum safety standards for the operation of airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats. On March 14, 1984, the FAA implemented revised Section 612 of the FA Act by adopting Amendment 139-13 to FAR Part 139. This change to Part 139 required airports serving air carriers operating aircraft with more than 30 passenger seats be certificated under Part 139.

The obvious purpose to these statutory and regulatory efforts was to enhance the level of safety in that segment of the aviation industry that provides most of the air transportation to the traveling public. FAR Part 121 air carriers (the over 30-passenger seat aircraft) constitute that segment of the industry. The current requirements on air carriers and airports are the same as those which existed prior to deregulation. In the adjustments which took place as a result of deregulation, noted above, there was a short time in which Part 139 certification was keyed to 60 seats (the then CAB cutoff) rather than 30 seats.

With this historical perspective in mind, it is important to distinguish the difference between an exemption and a deviation. An exemption to a regulation is obtainable only through a regulatory process which includes formal petitioning, publication in the Federal Register, public interest considerations, etc. In the case of a deviation, the specific regulation itself permits the Administrator or his agent to grant authority to deviate from part or all of the specific regulation without going through a formal regulatory process. FAR Section 121.590 contains a provision for the Administrator to grant a deviation and does not require this lengthy exemption process. A deviation authority is usually granted through an amendment to the air carriers' operations specifications. Our answer to the first question follows:

With respect to the air carrier in question, it originally sought a deviation to permit the use of aircraft suitable for the carriage of specialized oil drilling equipment, and the personnel who would use that equipment, to rural areas not served by certificated airports. In response to this unique need, a deviation to FAR Section 121.590 was granted for the 48-seat Convairs on April 2, 1982. Admittedly, the deviation was granted inappropriately in that it was contrary to the Administrator's policy decision issued in January 1982. However, the deviation was not contrary to the then existing Section 612 of the FA Act, FAR Part 139, or FAR Part 121. Consequently, the deviation was permitted to continue in effect pending the outcome of congressional action on the Airport and Airway Improvement Bill and the rulemaking action necessary to implement the provisions of the revised FA Act. The FA Act was revised in September 1982 and revised FAR Part 139 was made effective on May 29, 1984.

The explanation that the FAA never had the statutory authority to grant such a deviation ("exemption") is incorrect. In accordance with FAR Section 121.590, the Administrator and, in this specific case, the Administrator's agent, had sufficient authority to grant the deviation. However, by permitting the deviation to remain in effect after May 29, 1984, resulted in the airport operator being in violation of the intent of Sections 610 and 612 of the FA Act and specifically in violation of FAR Section 139.3 each time the subject air carrier operated into an uncertificated airport.

The FAA now finds that the deviation authority originally granted for unique oil prospecting purposes is being used for routine air transportation purposes. This significant change in circumstances was one of the reasons for the FAA's reevaluation of the propriety of continuing the deviation authority.

SENATOR STENNIS AND SENATOR COCHRAN: The Company's existing limited exemption provides for advance notice to the FAA of all proposed flights into uncertificated airports and an opportunity for the FAA to inspect the airports or to object to the flight. These restrictions have been sufficient for safe operations into uncertificated airports in the past. Why are they insufficient now?

ANSWER: At the time the deviation was granted to the subject air carrier and at all times thereafter, the FAA was satisfied that the notification arrangements and restrictions in effect were sufficient to provide for an adequate level of safety. The FAA's reasons for withdrawal of the deviation authority were fourfold: (1) It permitted the subject air carrier to operate into uncertificated airports contrery to the intent of the revised FA Act, in addition to permitting the air carrier to cause uncertificated airport operators to be in violation of the revised FAR Part 139. (2) Many of the uncertificated airports used by the subject air carrier have been in contact with the FAA, and some have subsequently been certificated. Others corrected safety problems that were brought to their attention by the FAA. (3) The subject air carrier's type of operation is not unique, and other air carriers around the country with a similar type of operation have not requested nor were they granted a deviation to FAR Section 121.590. (4) The FAA was concerned that because of the deviation, the passengers of the subject air carrier were not being afforded the same enhanced level of safety that was being provided by other FAR Part 121 air carriers and as was intended by the revised FA Act and the revised FAR Part 139.

QUESTIONS SUBMITTED BY SENATOR BYRD

FLIGHT SERVICE STATIONS

SENATOR BYRD: Mr. Engen, the Federal Aviation Administration has selected Elkins, West Virginia, as the site for the consolidated automated flight service station. Would you provide me a copy of your time table for the completion of this facility?

ANSWER: The automated flight service station at Elkins, West Virginia will be constructed by the local community and leased to the FAA. Current schedules call for the beneficial occupancy date (BOD) of the new facility to occur during March of 1989. At that time the FAA will start site preparation work including the installation of consoles and communications equipment. It is expected that Model II automation equipment will be installed approximately six months after BOD and be commissioned three months later. Plans for the consolidation of the existing FSS's in West Virginia have not been finalized; however, it is anticipated that consolidation will be completed within two years after the facility is commissioned.

SENATOR BYRD: What are FAA's plans with regard to the other flight service stations in West Virginia?

ANSWER: The flight service stations in West Virginia will not be closed or consolidated through 1988.

SENATOR BYRD: Would you supply for the record your long-term plans for West Virginia's air traffic control system?

ANSWER: The FAA plans to continue the same level of air traffic control services we presently provide within the state of West Virginia.

To reduce the costs of low level (VFR) airport traffic control towers we will contract the operation and maintenance of our level I towers in West Virginia to private sector contractors (as we have done at Lewisburg, West Virginia). This program will aid in continued operation of those towers.

SENATOR BYRD: In my state of West Virginia we have numerous airports located in extremely rugged terrain, and we have substantial variations in weather patterns from one county to the next. Therefore, I have a strong interest in insuring that, where necessary, there is some one on the ground with a local knowledge of the highly changeable weather conditions and unique characteristics of the area around a given airport. This is a question of safety.

It is my understanding that such considerations as topography and climate will be part of the criteria for keeping some of the present flight service stations open. Could you tell me what other criteria will be applied, what weight will be given to each of these criteria, and any other considerations that may affect the selection of certain flight service stations for continued operation?

ANSWER: An integral part of our FSS specialist technical training is to require an in-depth knowledge of the local terrain and weather conditions which affect the area in and around a particular airport. The actual location of the FSS facility will not affect our ability to continue to provide these essential services. Criteria is currently under development which will consider factors such as local conditions, topography, and any unique characteristics of the particular area.

SENATOR BYRD: This budget contains a reduction of $39 million or approximately 40 percent of the FY 1985 level for flight service facilities. What activities are being discontinued as a result of the reduction, and at what location?

ANSWER: No activities are being discontinued as a result of this reduction. We can continue the FSS activities with funds currently avaliable in the FSS Modernization program. Therefore we have not requested FY 1986 funds in the Facilities and Equipment appropriation.

SENATOR BYRD: While plans are going forward for the Automated Flight Service Station at Elkins, what are you doing to insure that the equipment at other flight service stations is being replaced and kept in good working order?

ANSWER: We have current ongoing projects to replace obsolete

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air-ground radio communications equipment and old eletromechanical teletypewriter and telewriter equipment at flight service stations with new state-of-the-art solid-state equipment. Additionally, we continue to modernize and improve flight service stations where required for environmental improvements, employee safety and health, and to keep the facilities in good working condition.

SENATOR BYRD: On another subject related to the automated flight service stations, it is my understanding that the software supporting the first three of the consolidated flight service stations has been delayed again and again. Your testimony before this subcommittee last January indicates that the software should be ready and the first three flight service stations should be operational next month. Is that time table still on schedule?

ANSWER: As indicated in testimony in January, the first Model I automation system was delivered to the FAA Technical Center in December of 1984. Since that time another system was delivered to the FAA Academy in February. Our plans still call for delivery of the first three field systems (Cleveland, Dayton and Bridgeport) in May with commissioning scheduled for December. We are currently maintaining the schedule presented in January.

SENATOR BYRD: I believe you also told the committee that no penalty clause for delay was written into the contract with the software supplier, isn't that correct?

ANSWER: That is correct, the software contract is a cost plus incentive fee type contract. It has a target fee of 10 percent with a fee floor of 2 percent. Costs above the target cost are shared by the government and the contractor by a 70/30 ratio respectively. The sharing ratio has the effect of reducing the contractor's fee which is presently at the 2 percent floor level.

SENATOR BYRD: What are you doing to insure that the contractor delivers the remainder of the systems on schedule?

ANSWER: Once the Model I equipment passes the formal system testing at E-Systems in early May, the delivery of Model I equipment to field sites is readily supportable. The contractor will stage field site systems on the production floor, conduct factory acceptance testing and package the systems for return to the warehouse. Approximately one Flight Service Data Processing System and 3-4 Automated Flight Service Stations will be delivered from the warehouse each month. Close coordination with the contractor has enabled an installation plan to be developed that can accommodate the delivery sequence and schedule presented in the January hearings. We continue to monitor the production contract very closely with on-site quality control personnel to assure availability of all components.

SENATOR BYRD: The contractor has delayed the delivery of the first system several times as I have already noted, and now you have testified that you are pressing the company to speed up delivery. This would seem to be a situation that places great pressure on the contractor and its workers to deliver a product, perhaps at any cost. What are you doing to insure that the product being delivered meets the stringent standards necessary to protect the safety of airline passengers as well as delivers efficient performance in the consolidated automated flight service stations?

ANSWER: The FAA's activities are oriented to accomplishing testing and installation in an expeditious manner. We are not "speeding up" testing or installations but rather focusing attention on preventing schedule delays. No testing requirements have been deleted. All planned contractor testing and an extensive FAA conducted shakedown will be accomplished to verify automation system compliance and operational system readiness prior to commissioning. A concentration of technical and management resources have been provided to support these activities. Program risk analysis and on-site testing personnel are providing high level management visibility to all activities.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

EUGENE AIRPORT

SENATOR HATFIELD: It is my understanding that FAA is limited by law from allowing airport operators from using more than sixty percent of enplanement funds under the Airport Improvement Trust Fund for terminal construction. Is that correct? It is also my understanding that airport operators can withhold application for the enplanement monies for a period of three years in order to allow them to accrue and then seek the funds in a lump sum payment. Is that a proper understanding? If not, in what respect is it correct? Are any airport operators pursuing such as approach or have any done so in the past? Please provide me with those airports which have chosen this approach. What is FAA's position towards the City of Eugene utilizing this approach under the Airport Improvement Trust Fund for the next three years?

ANSWER: The 60 percent limitation on enplanement funds which can be used for terminal buildings is correct. You are also correct concerning the banking of enplanement funds. A sponsor could accumulate up to three years worth of his apportionments if he wished. Any funds apportioned and not used in three years, however, are lost to a sponsor and become discretionary funds which can be used at any eligible airport. Eighty-five airports chose to carryover unused FY 1984 apportionments into FY 1985. These range from as low as $950 carried over by Albany County, Georgia, to as high as $3.7 million at Pittsburgh International. As for Eugene, our field office will cooperate with Eugene in their plans for use of their apportionments.

FUELING

SENATOR HATFIELD: Under FAA Regulations, Part 139, dealing with safety and certification of airports, air carrier airports are responsible should planes develop any problem after refueling where such refueling is provided by contract operators. However, Congress passed S. 1146, the Aviation Drug Trafficking Control Act, which included a provision directing FAA to adopt an alternative approach to this matter. What has FAA done to implement this legislation? When does FAA intend to promulgate regulations?

ANSWER: Section 139.51(b) of the Federal Aviation Regulations (FAR), adopted in 1972, provides general requirements for fueling operations on certificated airports. The section requires that the certificate holder show that "it (or its tenant), as the fueling agent, has a sufficient number of trained personnel and procedures for safely storing, dispensing, and otherwise handling fuel, lubricants, and oxygen on the airport . . . ." This rule does not require that airport operators provide extensive, day-to-day control over tenant fuelers. The FAA believes that fueling agents have the fundamental responsibility for providing clean, dry fuel. Further, the pilot in command is ultimately responsible for the safety of the flight, and the air carrier, too, is responsible to ensure that the flight is made safely. Each may be held accountable for fueling safety problems in appropriate cases. Nevertheless, the airport operator has an oversight responsibility to assure that safe airport operations are conducted. This includes general oversight of tenant fuelers to determine that they have the basic personnel and procedures needed to conduct safe operations. It is recognized that not all certificate holders may have the expertise, training, or personnel available to monitor day-to-day tenant fueling operations. That is not required under the current regulation, nor does FAA intend to impose such a detailed monitoring requirement. The FAA does not believe that requiring airports to provide general oversight of fueling activities places an undue burden on them.

The FAA is aware of the concern expressed by airport operators and by the conferees to the Conference Report for the Aviation Drug-Trafficking Control Act regarding the oversight responsibilities of certificated airports over tenant fueling operations. We are also cognizant of the conferees' desire that, to the maximum extent feasible, FAA encourage voluntary industry efforts to address these concerns. In November 1984 the FAA held two meetings with various groups who represent airport managers, fixed base operators (who provide many of the tenant fueling services), pilots, state governments, and others. The major concern was the extent to which certificate holders should be responsible, under the FAR, for tenants' activities, and the complementary question of whether tenant fuelers should be certificated or otherwise directly regulated by the FAA. The meetings also revealed that the industry continues to develop standards and procedures which should reduce fueling safety hazards. The FAA has drafted an NPRM, currently in executive coordination, which deals with these issues.

To regulate tenant fuelers directly would be a major undertaking, requiring the development of standards and procedures for certification and inspection of many fuelers. This would be expensive for both the industry and the FAA. The current industry safety measures and the oversight by airport operators provide a sufficient level of safety at a relatively low cost for all concerned. Through lease agreements the airports can recover any costs of oversight, just as they can recover any other cost of managing property which they lease out. The FAA believes that at this point, the oversight provided by the airport operators is the least burdensome and most economical means for the industry as a whole to provide an appropriate level of safety.

The FAA does not regulate fuelers at small, uncertificated airports, just as Congress did not empower FAA with the same oversight responsibilities at these airports as was provided for certificated airports under §612 of the Federal Aviation Act. Unlike the certificated airports, such airports do not serve air carrier aircraft with a seating capacity of more than 30 passengers, and hence, the volume of passenger activity is considerably lower than at the certificated airports. Because of the reduced exposure to the traveling public, the FAA does not consider fueling operations at these low activity airports to constitute a safety problem warranting regulation and the corresponding burden this would involve. The voluntary industry measures mentioned above continue to provide for improvements in the safety at these airports.

VISUAL APPROACH GLIDESLOPE INDICATORS

SENATOR HATFIELD: Why is FAA discontinuing the Airport Improvement Program funding eligibility for the Pulse Light Approach Slope Indicator, an action which seems inconsistent with the need to reduce airport construction costs?

ANSWER: Several years ago, our longstanding policy on visual glideslope indicators was changed to permit Federal funding of any type of system that met minimum operational requirements. This would have led to a proliferation of these approach aids, which I do not believe to be in the best interest of aviation safety. Pilots need to see the same visual presentation at all airports and should not be expected to be familiar with the signal formats of a multitude of different systems. For this reason, I reinstated our earlier policy of funding only one system to promote standardization at U.S. airports.

The Precision Approach Path Indicator (PAPI) was chosen as the U.S. standard for Federal funding purposes primarily because it is the system that has been adopted by the International Civil Aviation Organization (ICAO) as the standard international system for use by fixed-wing aircraft. It is the policy of the Federal Aviation Administration (FAA), consistent with U.S. obligations under the Convention on International Civil Aviation, to implement ICAO standards on international airports whenever practicable. To select a system other than the PAPI for use at noninternational airports would not be consistent with the desired goal of standardization.

As to cost, the PLASI and PAPI are very comparable. Also, the PAPI is currently being made by at least six U.S. companies which ensures a high degree of competitiveness and the lowest possible cost.

LIFE CYCLE COSTS

SENATOR HATFIELD: OMB Circular A-102 requires that all Federal bidding specifications are to take into consideration the factor of "life cycle cost." Why does FAA not implement this requirement in the evaluation and approval of bids for Airport Improvement Program funded airport projects and acquisitions?

ANSWER: OMB Circular A-102 allows Federal grant recipients to specify life cycle costs in their bidding documents as a factor in determining low bid. However, there is no requirement to do so. FAA has issued guidelines to field offices on the use of life cycle cost in contracting under the Airport Improvement Program. These guidelines also are made available to airport sponsors. A major problem to date in the use of life cycle cost procedures for AIP projects has been the lack of verifiable data on manufacturer's or contractor's claims of future costs. Since the contract award would be based in larger part on these costs, they must be fully documented and proveable. So far, this has been a major stumbling block in the use of this procurement tool.

PRECISION APPROACH LANDING AIDS

SENATOR HATFIELD: When does FAA intend to issue its policy regarding the eligibility of airports for either instrument landing systems (ILS) or microwave landing systems (MLS)? What will happen to those airports which were previously designated for an ILS? Will those airports be placed in the MLS list and what priority will they be assigned? Has FAA developed a listing of airports that either received ILS's or were to receive ILS's and those airports which are to receive MLS's and their priority? If so, would you provide that information for the record and the projected date those airports will receive these landing systems?

ANSWER: FAA's policy regarding instrument landing systems (ILS), microwave landing systems (MLS) was approved by the Administrator on July 6, 1984 and by the Secretary on October 16, 1984. The policy is as follows:

1. Approve no new ILS establish projects except currently qualified locations that have no precision landing system on the airport or those locations that have both an immediate critical aeronautical need for a precision landing system and where it is economically beneficial to install an ILS. This includes new runways at major hub airports as well as critical training and runway repair requirements (i.e., closed runway is only instrumented runway on airports).
2. Approve upgrading partial system's localizer/outer marker to full ILS at those locations qualified and where such action would complete the only ILS on the airport.
3. Revise the priority of MLS installations in accordance with the networking concept and prioritization scheme cited in the MLS transition plan taking into account user needs.
4. Replace all remaining tube-type ILS components with solid-state components equipment except those locations that will receive an MLS prior to 1990.
5. Maintain existing ILS service at international airports until at least 1995.

Airports which meet FAA's criteria will be provided an ILS or MLS in priority and in accordance with the agency's policy and MLS transition plan.

The list of location identified to receive ILS and MLS is as follows:

ILS - No Priority Stipulated

LOCATION

Huntsville, AL
Danbury, CT
Waukegan (Memorial) IL
St. Paul (Downtown), MN
Gulfport-Biloxi, MS
St. Louis, MO
Caldwell, NJ
Albuquerque, NM
Brookhaven, NY
Raleigh, NC
Corvallis, OR
Pittsburgh, PA
Dallas (DFW Regional), TX
Houston (Intercontinental) - 2 systems
Cedar City, UT
Manitowac, WI

FAA's list of 172 locations which will receive MLS follows. The list is in installation order in accordance with FAA's hub/spoke network scheme. Two locations, Number 97 Carins, Alabama, and Number 98 Troy, Alabama, are funded by the DOD. They must be identified because of a contractural requirement to install the systems in clusters of no less than 4 or greater that 7 in a hub/spoke. The three locations which are reserved, Numbers 168, 169, 173, are locations reserved for clusters in that area. The list has undergone a review and we anticipate changes. We will coordinate any changes with you and seek your concurrence.

1	NY Buffalo	Int'l	23
2	MA Boston	Logan	04R
3	MA Boston	Logan	22L
4	NH Laconia	Muni	08
5	MA Pittsfield	Muni	26
6	MA Bedford	Hanson	29
7	CO Hayden	Yampa Valley	28
8	CO Alamosa	Bersman Field	20
9	CO Denver	Stapleton	35L
10	CO Denver	Stapleton	17R
11	IN Indianapolis	Heliport	28
12	IL Chicago	O'Hare	14R
13	IN Indianapolis	Int'l	04L
14	MI Detroit	Metro	03L
15	TX Dallas	Regional	17R
16	AR Fayetteville	Drake	16
17	AR Little Rock	Adams	22L
18	AR Ft Smith	Muni	07
19	OK Academy		
20	OK Depot		
21	VA Washington	National	33
22	VA Washington	National	36
23	NY New York	La Guardia	22

24	NY	New York	Kennedy	04L
25	NJ	Newark	Int'l	04L
26	LA	New Orleans	Heliport	Hp
27	LA	New Orleans	Moisant Int'l	19
28	LA	Shreveport	Regional	05
29	LA	Patterson	H.P. Williams	23
30	LA	Houma	Terrebonne	18
31	TX	Houston	D.W. Hooks	35L
32	AK	Juneau	Int'l	08
33	AK	Sitka	Int'l	11
34	AK	Ketchikan	Int'l	29
35	AK	Petersburg	Petersburg	22
36	AK	Wrangle	Wrangle	09
37	AK	Yakuatat	Yakuatat	11
38	AK	Cordova	Cordova	27
39	AK	Anchorage	Int'l	06R
40	CA	Los Angeles	Int'l	24R
41	CA	Burbank	BUR	07
42	AZ	Phoenix	Int'l	26R
43	CA	San Francisco	Int'l	28R
44	NV	Ely	Yelland	18
45	CA	Point Mugu	NAS	21
46	CA	San Diego	Lindburg	27
47	AZ	Tuscon	Int'l	11L
48	VA	Roanoke	Muni	23
49	MA	Boston	Logan	33L
50	MA	Boston	Logan	15R
51	VT	Burlington	Int'l	15
52	VT	Rutland	State	19
53	VT	Springfield	State	05
54	ME	Portland	Int'l	11
55	ME	Bangor	Int'l	33
56	NY	New York	La Guardia	13
57	NY	New York	Kennedy	22L
58	NY	Syracuse	Hancock Int'l	10
59	NY	New York	Kennedy	04R
60	PA	Philadelphia	Int'l	09R
61	VA	Washington	National	18
62	MD	Baltimore	Friendship	10
63	PA	Philadelphia	Int'l	17
64	PA	Philadelphia	Int'l	9L
65	MI	Lansing	City	27L
66	IL	Chicago	O'Hare	32L
67	MN	Minneapolis	Int'l	29L
68	OH	Cleveland	Hopkins	05R
69	MI	Grand Rapids	Int'l	26L
70	IL	Chicago	O'Hare	27L
71	CA	Santa Ana	Wayne Field	19R
72	CO	Montrose	Airport	12
73	CO	Rifle	Garfield	26
74	CA	Los Angeles	Int'l	06L
75	CA	Los Angeles	Int'l	06R
76	CA	San Jose	Muni	30L
77	CA	San Francisco	Int'l	19L
78	CA	Los Angeles	Int'l	24L
79	CO	Grand Junction	Walker Fld.	11
80	CO	Gunnison	County	06
81	WA	Spokane	Int'l	03

82	Spokane	Int'l	21	
83	WA Pasco	Tri-Cities	21R	
84	WA Pullman	Moscow Region	32	
85	WA Spokane	Felts	21R	
86	WA Everett	Snohomish	16	
87	AK Fairbanks	Int'l	19R	
88	AK Dead Horse	Dead Horse	04	
89	AK Kenai	Muni	19	
90	AK Barrow	Post/Rogers	06	
91	GA Atlanta	Int'l	09R	
92	GA Atlanta	Int'l	27L	
93	TN Memphis	Int'l	36L	
94	KY Covington	Int'l	36	
95	KY Louisville	Standiford	19	
96	SC Greer	Spartenburgh	03	
97	AL Cairns	Army Air Fld	06	Funded by DOD
98	AL Troy	Muni/AAF	07	Funded by DOD
99	MO Kansas City	MKC	03	
100	MO Kansas City	Int'l	27	
101	IA Des Moines	Municipal	05	
102	NE Omaha	Eppley	14L	
103	CT Windsor Locks	Bradley	06	
104	CT Groton	New London	23	
105	RI Providence	Theodore	05R	
106	CT New Haven	Tweed	02	
107	NY New York	La Guardia	04	
108	NY New York	Kennedy	13L	
109	MD Baltimore	Friendship	15R	
110	NY Buffalo	Int'l	05	
111	NY Rochester	Monroe Co	28	
112	WV Charleston	Kanawha	23	
113	VA Norfolk	Int'l	05	
114	VA Norfolk	Int'l	23	
115	WY Gillette	County	15	
116	CA Los Angeles	Int'l	25R	
117	UT Salt Lake Cty	Int'l	16L	
118	UT Salt Lake Cty	Int'l	34L	
119	CO Colorado Sp	City Muni	35	
120	CO Colorado Sp	City Muni	17	
121	CO Denver	Stapleton	08R	
122	WY Rawlins	Muni	22	
123	CA Red Bluff	Municipal	33	
124	ID Boise	Gowen Field	10R	
125	CA Santa Barbra	Muni	07	
126	AZ Phoenix	Int'l	08R	
127	CA San Louis Obi	County	28	
128	WA Seattle	Boeing	13R	
129	CA Sacramento	Metro	16R	
130	WA Seattle	Tacoma	16R	
131	WA Seattle	Tacoma	34R	
132	OR Portland	Int'l	10R	
133	OR Portland	Int'l	20	
134	CA Sacramento	Metro	34L	
135	NY New York	Kennedy	31R	
136	PA Perkasie	Penridge	?	
137	PA Pittsburg	Int'l	28L	
138	NY New York	Kennedy	22R	
139	NY New York	Wall Street	Hp	

140	PA	Philadelphia	North East	06
141	WV	Clarksburg	Benedum Fld	21
142	PA	Philadelphia	Int'l	27R
143	MD	Andrews	AFB	19R
144	MD	Andrews	AFB	01L
145	NY	Binghamton	Link Fld	34
146	NY	Syracuse	Hancock Int'l	28
147	CA	Los Angeles	Int'l ·	25L
148	CA	San Jose	Muni	12R
149	NV	Elko	Muni	23
150	WY	Sheridan	County	31
151	CA	San Diego	Gillispie	27R
152	CA	San Jose	Ried/Hillview	31R
153	CA	Long Beach	Daugherty Fld	30
154	CA	Ontario	Int'l	26L
155	AZ	Yuma	Int'l	21R
156	PA	Wilkes Barre	Scranton	04
157	NY	Rochester	Monroe Co	04
158	PA	Pittsburgh	Int'l	10L
159	NY	Albany	County	19
160	PA	Erie	Int'l	06
161	PA	Lancaster	Airport	08
162	CA	Los Angeles	Int'l	07L
163	CA	Los Angeles	Int'l	07R
164	CA	San Diego	Lindburgh	09
165	CA	Carlsbad	Palomar	24
166	CA	Santa Maria	Public	12
167	NV	Reno	Int'l	16R
168	WP	RESERVED	FY 87	
169	WP	RESERVED	FY 87	
170	AK	Galena	Galena	25
171	AK	Fort Yukon	Fort Yukon	21
172	PA	Middletown	Harrisburg	13
173	AK	RESERVED	FY 87	
174	SC	Charleston	Int'l	15
175	AL	Birmingham	Muni	05
176	SC	Columbia	Metro	11
177	GA	Savannah	Int'l	09

SUBCOMMITTEE RECESS

Senator ANDREWS. We appreciate your being here and your usual candid way of responding to our questions. We also appreciate the fact that when you have got a problem, you handle it within appropriated funds and you live within that appropriation.

The subcommittee will now stand in recess until Thursday, April 4 at 10 a.m.

[Whereupon, at 11:35 a.m., Wednesday, April 3, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 4.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

THURSDAY, APRIL 4, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:15 a.m., in room SD-138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, Kasten, and Lautenberg.

U.S. RAILWAY ASSOCIATION

STATEMENT OF STEPHEN BERGER, CHAIRMAN

OPENING STATEMENT

Senator ANDREWS. The subcommittee will come to order

This morning we will follow a usual committee procedure of convening a panel to discuss Conrail issues, particularly the ramifications of the proposed sale. Mr. Stanley Crane, Conrail; Mr. Steve Berger, U.S. Railway Association [USRA]; and Deputy Secretary Jim Burnley, Department of Transportation, will be our witnesses.

I would like to add one more thing that concerns us. The Department of Transportation proposes to eliminate Amtrak and to fast track the abolition of essential air service which we put in after we deregulated, because so many towns are not served. We cut almost 75 percent from the UMTA budget.

Given this proposed wholesale abandonment of federally supported transportation services, maybe to the States, maybe to the private sector, but more likely to oblivion, as it looks now, I would like to find out if for 1 minute the impact on the freedom of movement for the old, the very young, the handicapped, and those living on fixed incomes, and those living in the rural areas of this Nation was even considered.

As I see it, you are guaranteeing that unless such groups of individuals have cars or some access to automobile transportation, their freedom of movement will be restricted, or in some cases eliminated, simply because of geography, economics, handicaps, and the like.

While these drastic cutbacks might prove an economic windfall for automakers and highway construction companies, they are hardly in the best interests of the citizens of this Nation, for such a policy is neither just nor equitable nor even rational.

So, we would like to begin this hearing to try to address those issues, and also talk to a certain extent about the intermingling of one type of transportation with the other.

We found out yesterday, and Senator Lautenberg was here, that while we are going to have 17,500 people thrown off Amtrak in the Northeast corridor in and around New York, the FAA has no way of taking care of them if they move to air transportation. This shows a lack of planning.

We have the same interesting subject here. What happens with Conrail? Where are we really going to go, and what kind of service guarantees are we going to give to those small communities?

And what protection do we give to the Federal Government that we are not going to have to come back in and do a multibillion-dollar bailout all over again?

So, hopefully, gentlemen, we can explore that. I will be asking each of you individually about your organization's role in and perspectives on the proposed sale. The panel format, we feel, provides a better opportunity for full discussion of the issue, because people can comment back and forth instead of having one sterile presentation followed by yet another sterile presentation.

Following examination of Conrail issues, Deputy Secretary Burnley and Assistant Secretary Derman will cover the budget request for the Office of the Secretary.

Now, Senator Lautenberg, do you have any introductory remarks?

OPENING REMARKS OF SENATOR LAUTENBERG

Senator LAUTENBERG. Just briefly, Mr. Chairman.

I agree with the concerns that you have expressed certainly about what happens to the total transportation network if we make the wrong decision and how we deal with Conrail.

I think that it is quite apparent that I have tried to look at this issue in some depth, trying to remain neutral in terms of the decision of how, if we privatize, do we do it. I say that I encourage seeing Conrail returned to the private sector, but I am not in a hurry to do this, because as time passes, events take place. The type of transaction to privatize develops more or less credence.

So, Mr. Chairman, this is an essential for my State, for my part of the country. It is critical that we have an operating Conrail system, and I am concerned about the strength and viability of that system, regardless of who the owners might be.

So, I am interested to hear from the witnesses. I commend you for holding this hearing. It is a critical issue as far as New Jersey is concerned, and as I hear you talk, Mr. Chairman, it is a critical issue as far as your area is concerned, too.

Thank you.

PREPARED STATEMENTS

Senator ANDREWS. Thank you, Senator. We will insert your prepared statement in the record. We also have opening statements from Senators Chiles and D'Amato which will be made part of the record.

[The statements follow:]

STATEMENT OF SENATOR LAWTON CHILES

The sale of Conrail to Norfolk Southern has generated a great deal of comment and concern among several of the other railroads. The charge has been made that the sale will be anticompetitive and concern has been expressed that the congressional process will not permit a full review. I am interested in hearing the witnesses address these issues as well as the appropriateness of the sales price.

Secretary Dole has placed high priority on the transfer of the two federally operated and owned airports to a State-local compact. I am personally concerned about the proposed sale. I want to learn what alternatives exist to all the problems we hear about Federal ownership and see how these problems can be solved without a transfer before I am willing to support a transfer.

I look forward to hearing the testimony of this morning's witnesses.

STATEMENT OF SENATOR ALFONSE D'AMATO

Mr. Chairman, I thank you for this opportunity to offer my statement on the sale of Conrail. I appreciate this opportunity to submit my comments on a transportation issue of great importance to the State of New York.

The sale of Conrail will have significant impacts on the economic health of New York, as well as that of other Northeastern States. Conrail's transfer to the private sector, as intended by Congress, must be accomplished with the public interest foremost in mind. It is our job to protect the interests of workers, industries, communities, and shippers during the sale process.

As you know, Conrail was created by Congress in 1975 as a result of the bankruptcy of the Penn Central and six other Northeastern railroads. The Federal Government holds 85 percent of Conrail's common stock and the remaining 15 percent is held in an employee stock ownership plan.

Until 1981, Conrail operated at a loss and Federal aid was required to keep the company operating. That year, Congress enacted the Northeast Rail Service Act [NERSA], which enhanced Conrail's ability to become profitable and provided for the orderly return of Conrail to the private sector. Nonfreight service responsibilities were removed from Conrail under NERSA and there has been an end to Federal subsidies in recent years. NERSA also provided that the sale plan should promote competitive bidding, ensure continued rail service, and maximize the return to the Federal Government on its investment.

The Department of Transportation contacted more than 100 companies about bidding for Conrail between 1982 and 1984. The possibility of a public offering was also examined. As a result of this process, 15 bids were received by the Secretary of Transportation by June 1984. The list of bidders was narrowed down during the negotiations process and the Secretary again reviewed the public offering option after Conrail management submitted its plan.

Norfolk Southern Corporation has been selected as the Secretary's choice for owner and operator of Conrail. The Department of Transportation and the Norfolk Southern Corporation have signed a nonbinding Memorandum of Intent concerning the proposed sale. This document embodies the major terms of provisions to be included in the Definitive Agreement, planned to be executed and delivered following passage of the required implementing legislation.

The Conrail Sales Amendments (S. 638) legislation has now been introduced and referred to the Senate Committee on Commerce. It is vital that Congress closely examine the many complex issues raised by this transfer and ensure the protection of the best interests of the 15 States which Conrail serves, as well as the long-term national interest in healthy rail freight transportation. We must remember that, in the private sector, Conrail will be stripped of special tax exemptions, expedited abandonment procedures, and other Federal aid. One of Congress' prime goals must be to reduce the risk that Conrail will ever again become a Federal responsibility.

I would like to state for the record that I support Secretary Dole's efforts to transfer Conrail to the private sector. Secretary Dole deserves to be congratulated for the responsible and diligent manner in which she has handled the tremendous duty of selling Conrail. A negotiated sale to a responsible bidder is the best approach to this most difficult task. I believe the Secretary has done an outstanding job of soliciting bids and seeking financially sound bidders who present the smallest possible risk of Conrail again requiring Federal subsidies.

Conrail is now the only effective means of moving freight by rail into New York State. With approximately 6,000 New Yorkers employed by Conrail and with the railroad providing an essential freight link to our region, it is imperative that the best possible buyer be found for Conrail. New York and the Northeast must be assured quality rail service over the long term—a viable, healthy rail system is vital to the economic health and well-being of our industries and our communities. The public interest demands that the buyer be financially sound and possess the clear intent to operate a profitable rail freight system and not merely to reap the rewards of a financial investment.

When the Justice Department completed its evaluation of the antitrust implications of a sale to the Norfolk Southern Corporation, it identified Buffalo as one of the four cities (Pittsburgh, St. Louis, and Chicago were also included) most heavily impacted by a proposed sale. Local officials and shippers have told me that the impact upon Buffalo could be devastating; however, they also view this critical stage in the sale process as one which provides the opportunity to enhance rail competition in the area. Since the contract of sale must remove any objectionable, anticompetitive results of the purchase by Norfolk Southern, it can serve as the basis for improved service and increased access to the Buffalo area.

Currently, there are five railroads serving this area; however, Conrail has severely limited their access to customers located on tracks it owns. Since Conrail has controlled 90 percent of the rail freight service in the region, there has been little competition in the past. The time is ripe to improve this situation.

I urge the Secretary to meet with New York State Transportation officials, as well as with local officials and shippers, to work out a plan which could become part of the sale agreement. There are various options available for increasing competition among the railroads in the Buffalo-Niagara Falls region. For example, we could transfer portions of the Conrail lines to a neutral regional carrier which would help reduce costs, open up competition, and maintain rail employment; we could open the gateway to Buffalo by instituting reciprocal switching on terms more favorable than under current rules; we could sell off pieces of the Conrail tracks to various competing rail carriers.

It is also critical that the new owner of Conrail continue the existing levels of service to the New York City area and be willing to add needed services in the future. During the past 25 years, New York City, like the rest of the Northeast, has endured a steady decline in rail service, as well as the deterioration of the physical condition of its rail network. The bankruptcy of the region's major railroads left New York City shippers with abandoned rail yards and clearance restrictions which have become increasingly more of a problem as railroads move to more modern, larger equipment. New York State and the Port Authority of New York and New Jersey have developed a capital improvement program totaling $150 million that is well under way and seeks to address some of these concerns.

We must now assure that the transfer of Conrail to the private sector does not harm the competitive abilities of the Port of New York and New Jersey. New York City, which is captive to Conrail, must not have its gateways or interchanges closed, neither must joint rates and through rates available to New York City shippers be increased or canceled. The continuity and integrity of the city's rail freight network must be maintained.

In addition, I believe we must assure continued service on Conrail's Southern Tier route. This service is important to many communities and shippers. Competitive main line operations on the major east-west and north-south routes now operated by Conrail, must be continued. Service and maintenance on these vital lines must continue without harmful cutbacks or abandonments.

The long-term protection of Conrail employees is also of great concern to me. We must assure that Conrail continues to be a profitable, strong rail system with plenty of traffic. This is the best way to guarantee the continued existence of jobs. Congress has been assured that Conrail headquarters will remain in Philadelphia, which is significant to maintaining its reflection of the interests of Northeastern States. I would also like to add that Conrail employees, through their sacrifices, played a major role in Conrail achieving profitability. Many of these employees suffered through the collapse of the Penn Central and the other bankrupt carriers. We in Congress must remember that there are many working men and women who deserve prompt action and an answer to the current uncertainty as to what will happen to Conrail.

It is also important that the sale of Conrail yield the highest possible return on the taxpayers' investment in the system, consistent with the paramount public interest of preserving service and leaving Conrail in the strongest possible financial condition after the sale. A financially sound buyer is the best insurance to guard against Conrail ending up once again at the Federal doorstep looking for a public subsidy.

Finally, the sale of Conrail will mean that it will once again become a taxpayer worth over $30 million annually to the Northeast and Midwest. New York State alone is losing $4.6 million per year in State taxes because Conrail is now exempt from State taxes.

There has been much talk about a public offering of Conrail stock. I have serious questions about whether it is feasible to sell such a huge volume of Conrail stock and get a return greater than, or even equal to, the price a negotiated sale can offer. Moreover, I am concerned that a public offering would leave Conrail in a vulnerable and financially weakened position. After all we have endured with the rail crises in the Northeast, we must not support a sale plan that contains an unreasonable element of risk. Our considerable efforts to assist Conrail and the expenditure of taxpayers' money must not be undone with another railroad business failure in the future.

Thank you, Mr. Chairman.

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Mr. Chairman, we today take up the important issue of the sale of Conrail to the private sector as provided for in the 1981 Northeast Rail Services Act. Few issues are of more importance to my part of the country.

I have tried to look at this issue in some depth and from as neutral a position as possible. I have stated that I am not adverse to seeing Conrail returned to the private sector. I am, however, in no hurry. The right deal for Conrail can be in the long-term interest of my State and region. The wrong deal could be a disaster.

The Senate should take its time and do this right. Of late, the proposed sale to Norfolk Southern has resulted in extensive controversy. It is in everyone's best interest, including Norfolk Southern's, to answer the questions that have been raised about their offer in terms of price, competition, loss of jobs, and impact on States in the Conrail region.

This Senator has a very big stake in this matter. I have the port of New York and New Jersey on my north, the home of Conrail, Philadelphia, on my south, and many important industries who ship with Conrail in between.

Stan Crane comes before us with a challenging offer: To sell Conrail via a public offering, something the Department of Transportation has rejected. No one knows Conrail better than Stan Crane; he's done a terrific job with this railroad. We should give his views careful attention.

Mr. Chairman, we all know the controversy this issue has engendered. Today, perhaps we can extract some wisdom from these witnesses to guide our decisions. Let's hope so.

STATEMENT OF STEPHEN BERGER

Senator ANDREWS. We will proceed in the order of witnesses of Mr. Berger, Mr. Crane, and Mr. Burnley.

Let me assure all three of you that your introductory remarks will appear in the record as though you uttered every word of them. You may summarize in any way you wish. Or you may read the whole statement.

Mr. Berger.

Mr. BERGER. Thank you, Mr. Chairman.

I am delighted to be here to talk about Conrail. If you would like at any point I would be delighted to come back and talk to you about the impacts of some of the cuts on urban mass transit funding, wearing another hat, at some other time.

Senator ANDREWS. We know you wear all those other hats. What we are getting is kind of a blending together, an overall concern for transportation, and somehow or other in the last year or two we have seen some of the sharpest potential steps backward from the national transportation policy, and of course that concerns us.

Senator Byrd expressed it so well yesterday. Other members of the subcommittee have expressed it. And what we want to make sure of is that we have the proper type of information so we can make sure we do, in deed and in fact, invest the Federal dollar where it will keep as much of a national network going as we possibly can.

You know, we are not afraid to do a little legislating on appropriations bills. We have done that before. We may do it again.

Senator LAUTENBERG. That is why I am here, Mr. Chairman.

ROLE OF ASSOCIATION

Senator ANDREWS. It may be just what the subcommittee wants to do, but they have some pretty definite ideas, and I have to go along with my subcommittee's wishes. But we want to make sure that we get the information from you so what we do is based on fact rather than fantasy.

Mr. BERGER. Thank you, sir.

Perhaps just one way for me to summarize a little bit about where the U.S. Railway Association is at this point is to perhaps tell you a little bit about some of the work that we are doing and have been asked to do for different Members of Congress and different committees, because I think in describing it quickly gives you some sense of where we think the direction of the questions ought to be, or I believe the directions ought to be.

We have just completed a report for the House Energy and Commerce Committee on Conrail's outlook through 1988. It is based on a series of studies we have done of the financial condition of the railroad.

We have been asked to do three different kinds of reviews. We have been asked by Senator Metzenbaum, for example, to do a study of the effectiveness of the divestiture plan related to Conrail.

Congressman Florio has asked us to do two studies for his House Subcommittee on Commerce, Transportation, and Tourism. One is on the impact of the Conrail sale on Philadelphia, the impact of a merger on Philadelphia. He has also asked us to do a much broader study which deals with the competitive aspects and competitive effects of a merger, including diversions.

KEY POLICY QUESTION

Let me suggest that I think those types of questions we have been asked really lead to a way of approaching the Conrail sale issue. The crucial issue is really a fundamental policy question; whether or not where we are now is where the 3R Act and the 4R Act and Staggers and NERSA are directing us to go. There are a series of questions which Congress has to deal with and answer and are primary before you begin to deal with questions such as particular pricing issues.

As you well know, the goal that so many people have worked so hard for has been to produce a viable rail system in the Northeast out of the chaos that was inherited. Many people contributed to the achievement and success of the rail system.

The Government contributed. The Congress passed legislation which helped clean up the situation that existed and made some very hard political judgments.

The States contributed by creating tax forgiveness. Rail labor contributed enormously by making great sacrifices, and other railroads contributed. Perhaps most of all we had enormous support from the shipping community, which was desperate to have service restoration.

So that as you look at a proposal, whether it is a proposal for a sale to another railroad or a proposal of a public offering or any other kind of proposal, the fundamental questions that have to be asked are whether or not the service capability that is going to exist in the region when the transaction is completed is one which meets and is satisfactory to the needs of the people in the region.

COMPETITION AND SERVICE

There has always been a difficult balance between the need for competition and the ability to have a viable service component because of the declining rail traffic in the area. As we look at these questions, and as you ask and raise questions with us about the shape of the different proposals for a transaction, that is the primary issue that has to be faced at this point. Do we have a system and will we have a system in place which provides service to those of us in the Northeast region?

What the U.S. Railway Association staff has been asked to do by different congressional committees, I believe, has been to try to gather some of the information and data which could be useful to the Congress in making those decisions.

That is the process we are engaged in now. The report that we issued this week to the House Energy and Commerce Committee is one building block of information, and the staff is ready to provide whatever other information you would find useful in your deliberations.

PREPARED STATEMENT

Senator ANDREWS. Thank you very much, Mr. Berger. We have your complete statement, and it will be made part of the record.

[The statement follows:]

STATEMENT OF STEPHEN BERGER

I appreciate the opportunity to appear here today to report on the status of Conrail and the work of the Association. As the Committee is aware, USRA's request for $3 million of new spending authority was omitted from the President's budget for fiscal 1986. The Office of Management and Budget (OMB) informed USRA that its omitted request was a part of the Administration's ongoing efforts to eliminate Federal subsidies to the railroad industry. Notwithstanding that omission, the date and means of Conrail's return to the private sector are still uncertain and Congress again will want to make a determination as to the need for continuing USRA's Conrail monitoring functions.

The past year was indeed a dramatic one for Conrail. A significant increase in traffic volume combined with increasingly efficient operations produced substantial financial improvement. In 1984 Conrail had an operating income of $466 million, representing an increase of $178 million over 1983 and a $98 million increase over the 1984 budget.

After the inclusion of non-operating items, Conrail's net income in 1984 was $500 million compared with $313 million in 1983. Cash flow from operations was $703 million, an increase of $152 million over 1983. After providing for capital outlays, Conrail was able to add $313 million to cash balances during the year. The ending consolidated cash balance for 1984 was $846 million.

During 1984, the continuing process of shaping and down-sizing the physical plant to foreseeable traffic levels permitted Conrail to achieve substantial operating leverage and financial gain. Operating revenues increased nearly ten percent, or $303 million, while operating expenses increased less than five percent, or $125 million, the latter figure includes a $67 million contingent labor expense provision retroactive to July 1, 1984.

Much of Conrail's success is attributable to the expense reduction provisions contained in the Northeast Rail Service Act (NERSA), Conrail's aggressive defense of its traffic base under rail deregulation, and the continuation of employee wage concessions during the first half of the year. The success of Conrail has done much to lift employee morale and develop a sense of corporate esprit.

Although Conrail was able to increase its traffic volume in 1984, competition continues to be quite severe. Rate increases are so constrained by the transportation marketplace that Conrail actually did not fully recover costs attributable to inflation, modest as it was during the year. Nevertheless, Conrail's success at achieving operating efficiency is noteworthy. The operating ratio declined four percentage points to 86.2 percent in 1984. All components of the operating ratio showed improvement. As in 1983, Conrail again elected to spend more capital funds than originally budgeted for track rehabilitation, and additions and improvements. The greatest portion of the increase was in the discretionary track program, providing for additional track miles of rail, ties, and related track work. Increased productivity in this area also resulted in lower unit installation costs than in the previous year.

In 1984, Conrail did not draw down any federal funding in support of operations, nor does it have any future plans to do so. Conrail has not drawn down any federal funds since June 1981.

Conrail's 1985 budget forecasts an operating income of $414 million. Including non-operating income items, Conrail's net income would be about four percent less than 1984. However, given Conrail's generally conservative estimates in recent years of achievable operating efficiencies, operating income more likely will be about equal to that of 1984. Traffic volume is expected to be virtually equal to 1984, although the commodity mix will change. The coal share of total tonnage will decline slightly to thirty-three percent.

The budget for 1985 is based upon reasonable assumptions including continued track rehabilitation, additions and improvements, and equipment acquisitions. Nevertheless, Conrail is extremely dependent upon traffic that is increasingly more susceptible to highway movement competition. Conrail cannot afford to overlook any opportunity for cost reduction and productivity improvement.

In each succeeding appearance before this committee, I have been progressively heartened by the renewed vigor of the northeast's principal railroad, as well as by the joint accomplishments of Conrail management and its employees. I am confident that the railroad is well poised to adjust to the cyclical demand for transportation that is the constant dark cloud over the railroad industry.

At this decisive juncture for Conrail, the Association's work program is to continue to provide the Congress with independent expertise on the myriad of issues, concerns and decisions attendant to the sale of the government's interest in the railroad. We were recently requested by Senator Metzenbaum of the Committee on the Judiciary to assess the sale and the divestiture plan called for by the Justice Department in terms of the resultant competitive structure in the Conrail service area. Also, we have been requested by Chairman Dingell of the House Committee on Energy and Commerce to analyze Conrail's prospects over the next few years, as well as by Sub-committee Chairman Florio and Congressman Foglietta to conduct an impact study of the proposed sale to Norfolk Southern on the Philadelphia region, including the Port of Philadelphia.

Turning to USRA's other major activity - the valuation litigation with the bankrupt railroads that transferred assets to Conrail - the year has shown progress regarding the two parties that remained. The settlement reached with the Lehigh and New England Railway Company (LNE) resulted in a closing on June 15, 1984, leaving the Central Railroad Company of New Jersey (CNJ), as the only party which has not settled its claims. In December 1983, the Special Court ruled that the 1976 net liquidation value of CNJ's conveyed properties was $42.5 million. The CNJ then pursued two additional legal arguments - the constitutionality of the 8% interest rate provided in the Regional Rail Reorganization Act of 1973, as amended, and severance damages associated with the decision not to transfer the Newark Bay Bridge to Conrail. The Special Court resolved these issues in favor of USRA's position in an opinion dated June 15, 1984 which was finalized in its order of July 23, 1984. CNJ appealed the decision and order of the Special Court to the U. S. Supreme Court pursuant to section 303(d) of the Rail Act. The Supreme Court on January 7, 1985 affirmed the decision of the Special Court bringing the valuation litigation before the Special Court to an end. The results of this decision possibly could lead to further proceedings in the CNJ reorganization court, but we hope it will lead to settlement and redemption of the Certificates of Value issued pursuant to the Special Court's order of July 23, 1984.

In another matter, in February of 1983 USRA received from the Erie Lackawanna Inc. 50,263 shares of Erie Lackawanna Capital Stock as settlement of disputed 211(h) claims totaling $5,026,300. At the same time the Department of Justice received 53,520 shares in payment of claims of the United States against the former Erie Lackawanna Railroad. The Department of Justice transferred its shares to the Department of the Treasury. In November 1984, USRA joined with the Department of the Treasury in a sealed bid auction to dispose of the combined 103,783 shares of Erie Lackawanna Capital Stock. On January 3, 1985, the sale of the stock was closed with USRA receiving net proceeds amounting to $4,080,350 which were credited to the USRA account at the Federal Financing Bank, reducing USRA's outstanding 211(h) debt.

Finally, if Conrail should not be sold in the near future and the Congress decides to continue USRA's Conrail monitoring function, then the Association will require an appropriation of $3 million for Fiscal 1986. An appropriation of that magnitude will provide for the approximately 30 full-time employees who are essential if USRA is to responsibly carry out its statutory duties as detailed in the Northeast Rail Service Act.

CONRAIL

STATEMENT OF L. STANLEY CRANE, CHAIRMAN AND CHIEF EXECUTIVE OFFICER

FUTURE OF CONRAIL

Senator ANDREWS. Next we would like to hear from Mr. L. Stanley Crane.

Mr. CRANE. Thank you, Mr. Chairman and Senator Lautenberg.

I would like to discuss with you Conrail's future. I believe that the course the Department of Transportation has set for the privatization of Conrail is wrong, and my belief was reinforced on Monday, when the U.S. Railway Association released their report stating that Conrail would earn, and I quote, "a modest but solid profit as an independent entity while paying industry scale wages, State taxes, and labor protection expenses during the 4-year period 1985–88," and that included a recession cycle.

USRA's conclusions contradict assertions made by the DOT that Conrail cannot survive without a savior, namely, the Norfolk Southern [NS]. In my opinion Conrail does not need the DOT savior.

Conrail, acting as an independent entity, has taken and will continue to take the actions necessary to bring the company continuing profitabilty.

I would like to discuss a couple of other key issues. First, Conrail management's public stock offering proposal. Two, the DOT plan for NS to acquire Conrail and its unprecedented request for immunity from judicial review. Three, why an NS takeover of Conrail would be destructive to competition and to employment.

And four, the very large tax benefits to NS as a consequence of a possible takeover of Conrail which benefit NS beyond the purchase price.

ADVANTAGES TO MANAGEMENT STOCK OFFERING

Let me begin by telling you why I think Conrail's management stock offering approach is a better way. An independent Conrail with an independent management and an independent board of directors accountable to a broad base of stockholders, like any other major national company, has the greatest incentive to serve the long-term interests of shippers and communities, and to demonstrate the willingness to make investments and commitments required to maintain service.

Our company's record over the last 4 years demonstrates a strength resulting from significant contributions made by Conrail's employees who made Conrail viable and efficient. Continuing cooperation will be the cornerstone of our future success.

We believe that a public offering of stock is in the best interest of our constituencies and the Nation for it leaves intact the structure which has produced the success we have enjoyed.

OPPOSITION TO NORFOLK SOUTHERN SALE

I would also like to discuss for a few minutes why the DOT proposal is unique, and why I believe it has potentially dire consequences. Economically it is extraordinary because it would create the largest transportation company in the United States with combined revenues of nearly $7 billion and possessing 60 percent or more of the Northeast-Midwest rail market for chemicals, grain, automobiles, metals, scrap, and auto parts.

It is of extraordinary legal concern, because DOT has asked the Congress to exempt the transaction from every municipal, State, and Federal law, including antitrust laws, and to immunize it in its future implementation of judicial review permanently despite the fact that no independent administrative agency has scrutinized the transaction in the public area.

In order to address its very anticompetitive problems in the DOT plan, the Justice Department proposed divesting lines from the merged NS-Conrail to small, undercapitalized regional railroads.

The Justice Department's analysis is seriously flawed, because it apparently ignored real movements of traffic and looked instead at competition within counties. Rail traffic just doesn't move in those patterns.

But even the anticompetitive effect of the plan on county competition was enough to lead Justice to conclude that standing alone, the merger would violate every existing merger standard.

Therefore, Norfolk Southern proposes to divest those lines and the acquisition or rehabilitation of which would require tens of millions of dollars to go for the transportation industry, one of the conveyees, and Pittsburgh and Lake Erie, which between them lost $75 million over the last 3 years, will acquire lines whose traffic density in many cases is less than one-twentieth of the volume carried by the lines to be retained by the Norfolk Southern-Conrail giant.

I do not really believe anyone believes that this solution creates competition. The effects of this questionable transaction on employment appears to be equally devastating. Hays Watkins, chairman of CSX, told the Senate Commerce Committee on February 28 that the merger would cost thousands of jobs on his railroad.

BRAC's Richard Kilroy said some 10,000 jobs would be lost. Others have estimated equally heavy losses. Norfolk Southern in return has said that only 1,200 Conrail-NS jobs would be eliminated.

The history of railroad mergers and their consequences for employment should serve as guidelines for reality. One thing is clear. An independent Conrail will preserve the greatest number of jobs.

TAX ADVANTAGES OF NORFOLK SOUTHERN TAKEOVER

Another aspect of the Norfolk Southern takeover plan that needs further investigation is the financial benefits and tax advantages which Norfolk Southern will receive in acquiring Conrail.

Such tax advantages could have a net cash benefit to Norfolk Southern over a 5-year period of hundreds of millions of dollars more than the $1.2 billion purchase price, and I do not believe that is in the best interests of the taxpayer.

DOT says it is, because it advocates the takeover of Conrail by NS. Four years ago DOT proposed that Conrail be broken up and sold off in pieces. That prescription was wrong then. Today DOT proposes to merge Conrail into Norfolk Southern, ignoring the Nation's basic economic policy of competition.

I believe that prescription is just as wrong. Conrail can stand on its own. That was confirmed by the USRA report, the agency Congress created to report to it on Conrail. That agency has done an excellent job. It should continue to provide guidance to the Congress as the sale process proceeds.

Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator ANDREWS. Thank you, Mr. Crane. We have your complete statement and it will be made part of the record.

[The statement follows:]

STATEMENT OF L. STANLEY CRANE

Good morning, Mr. Chairman and members of the committee. Thank you for this opportunity to discuss Conrail's vital importance as a transportation company for the nation.

Today I'd like to address four areas:

1) Conrail management's proposal for a public offering of stock to return the company to the private sector;

2) Conrail's new labor agreements with 16 of its unions to return their members to industry-scale wage levels;

3) The DOT proposal for a Norfolk Southern acquisition of Conrail, the unprecedented immunity from judicial review that the DOT proposes to grant the transaction, and why it will be destructive to competition.

4) Huge tax benefits to NS as a consequence of a possible takeover of Conrail.

Let me begin by telling you why we think the public offering approach is best.

First, we believe an independent Conrail, with independent management and an independent Board of Directors accountable to a broad base of stockholders, has the greatest incentive to serve the long term interests of shippers and communities, and to demonstrate a willingness to make the investments and commitments required to maintain quality service.

The public stock offering approach to return Conrail to the private sector ensures such a corporate structure, and will permit Conrail to be managed for long-term financial viability.

The record of Conrail over the last four years provides the support for a public offering. The strength of Conrail today is the result of significant contributions made by Conrail employees. Both management and union workers cooperated to make Conrail a strong, viable and efficient railroad. That cooperation, extended into the future, is one of the principal reasons the level of confidence in the success of Conrail can be so high.

The reason I emphasize the confidence in Conrail's future is that attacks on the public offering usually begin by questioning the long term financial viability of the company. So long as management working with its union employees has the flexibility to meet the demands of the marketplace and can respond to the economic cycles like any other company, there should be no concern for the future. The Department of Transportation would have you believe they have "guaranteed" the future by imposing restrictive five year covenants. No one can "covenant" traffic and revenue levels. And while the public offering proposal could be structured to comply with the spirit of the relevant DOT covenants, it would be a serious mistake to rely on those covenants as providing any security for Conrail over the longer term. They do not, nor can any set of covenants ever do it. The future is best secured by maintaining the kind of management/labor cooperation and determination to succeed that has been developed over the last few years.

We believe that because the nation's taxpayers financed the rebuilding of Conrail, it is only fair and equitable that the taxpayers now be permitted to participate in -- and benefit from -- Conrail's future success, by investing in Conrail stock, just as they now invest in thousands of other industrial corporations, including every other large railroad in the country.

We also believe that Conrail employees should be recognized in a concrete manner for their significant contributions to Conrail's success. Our public offering proposal does exactly that, by keeping 30 percent of Conrail's stock in employees' hands. That stock and the dividends it could earn represent a direct financial interest which employees would have in helping to keep the company financially successful for the long term.

The DOT's financial adviser, Goldman Sachs, has questioned the feasibility of a public stock offering, but they don't state that it cannot be done. And there is no secret why they don't - it can be done. Our financial adviser, Morgan Stanley, stated in a January 28 letter to Conrail's Chairman and Chief Executive Officer, L. Stanley Crane, that: "....the high level of unsolicited inquiries which we have received from a number of large financial institutions demonstrates the soundness of our conclusion that there is an enormous investor appetite for Conrail equity securities."

The DOT and other critics of our proposal have said that the dollar amount of stock in the public offering is too much for the market to absorb. They use as an example Ford Motor Company's 1956 public offering.

Unfortunately, but not surprisingly, those who try to make the argument don't put it in context. All of us would agree the world has changed since 1956. The $658 million public offering for Ford represented 0.3% of the total value of the common stock listed on the New York Stock Exchange in 1956. A public offering representing 0.3% of that same value in 1985 would be $4 billion. Arguments that there isn't enough capacity in the stock market for a Conrail public stock offering simply cannot be supported by the facts.

Because there have been concerns that someone, now unknown, might try to gain control of Conrail through a public offering, a 10% limitation on ownership for any one company, concern, or individual was suggested. It is nearly identical to the Comsat limitation. Much to our amazement, we now hear that this limitation is "weakness" in the public offering proposal because it would insulate management from the discipline of the marketplace. Mr. Chairman, all I can say is that if you accept that statement you are stating that every major railroad has the same insulation. There isn't a stock concentration of over 10% in any major railroad today.

Next, I find the public proposal under attack because it would use up to $300 million of Conrail cash to accomplish. Yes, it's true - the proposal we made would use $300 million of Conrail's cash, but the NS proposal provides for $375 million to go to Conrail employees, all of which can be Conrail's cash, except for the amount used for the ESOP buy-out. In other words, Norfolk Southern can use Conrail's cash for anything it wants except the ESOP buyout.

Recent testimony by the Department of Transportation would have you believe that the public offering plan would violate the DOT covenants because over a five-year period there would be over $400 million in borrowings. These borrowings have absolutely nothing to do with the sale of Conrail, no matter who the purchaser is. These borrowings are for equipment acquisitions which Conrail will need regardless of the identity of its owner. If the Department of Transportation is suggesting that the Norfolk Southern would not be doing this kind of equipment financing, it seems to me that the one's worst fears about continued investment in plant and equipment would be confirmed.

To sum up, we strongly believe that a public offering of stock is in the best interests of our constituencies and the nation.

As evidence of Conrail's restored financial vigor, Conrail has reached a significant agreement with 16 of its labor unions. We would hope that the remaining union will become a signatory in the very near future. The agreement returns Conrail's union employees to rail industry wage levels, retroactive to July 1, 1984. Because of the company's strong financial condition, we could afford to take this important step in recognition of employees' past contributions.

Now, let me turn to Conrail's shippers, and why they are so supportive of an independent Conrail. In my view, it is because such a company would preserve the Northeast-Midwest rail system. Shippers in the Northeast and Midwest have been patient for a long time. They were the ones who suffered most directly from the collapse of the Penn Central and the early years of Conrail. They had to put up with deteriorating service and noncompetitive rates. Today, for the first time in many years, they have a system that works; in fact, in a Distribution magazine survey, shippers voted Conrail the best railroad in the country in 1984. Conrail knows how to compete for their business, and Conrail has made a long-term commitment to helping them stay in business.

Scores of Conrail shippers have communicated to us and to government officials their satisfaction with the excellent service provided by Conrail and their opposition to Conrail's acquisition by Norfolk Southern. Most recently, in testimony before Senator Frank Lautenberg (D-N.J.) in New York City on February 25, four of our customers -- United Parcel Service, Union Camp, American Cyanamid, and Witco Chemical -- all testified to the high quality of Conrail service and the highly competitive transportation company Conrail has become. Not one of them expressed anything but the greatest concerns over an NS takeover of Conrail.

An NS takeover means starting the process all over again: dismantling the system; setting new marketing strategies; reducing the commitment to industry in Conrail's service territory; and most of all, eliminating the competition that is fundamentally responsible for the high quality of service and competitive rates that Conrail shippers have come to count on.

I'd like to discuss the anticompetitive aspects of the DOT proposal, and the antitrust implications of a Norfolk Southern acquisition of Conrail.

From an economic, antitrust, and regulatory perspective, the DOT proposal is an extraordinary transaction. Economically, it is extraordinary because it would create the largest transportation company in the world, with combined revenue of nearly $7 billion. This company would control a mega-railroad that will possess 50 percent or more of the Northeast/Midwest rail market for chemicals, grain, automobiles, metals, scrap, and auto parts.

It is of extraordinary antitrust concern because DOT has asked the Congress to exempt the transaction from every municipal, state, and Federal law, including the antitrust laws, and to immunize it and its future implementation from judicial review permanently. DOT makes this request despite the fact that no independent administrative agency or court has scrutinized the transaction, and no opportunity has been accorded the public to assess and comment on its impact.

Finally, the transaction is extraordinary because it undermines the important pro-competitive regulatory reforms of the Staggers Rail Act of 1980, by requiring the reestablishment of joint route and rate arrangements that existed prior to railroad deregulation, which severely restricted competition between railroads. This too, would be accomplished without public hearings.

Let me describe how substantial the head-to-head competition currently is between Conrail and NS. Conrail traffic competing with the NS at origin, destination, or both, is worth more than $500 million a year in rail revenue. Conrail and NS compete vigorously for that traffic. As a result, shippers, receivers, and consumers benefit. A takeover of Conrail by NS means a total loss of that type of competition, and a real loss to our shippers in dollars and cents.

There is another aspect of competition between Conrail and NS, called geographic competition, where the railroads are not running side by side, but rather compete because their customers compete. Let me give you some examples of how Conrail's very existence stimulates geographic competition.

Norfolk Southern and Conrail serve competing coal fields in West Virginia and Pennsylvania respectively, which are desirable sources for coal-fired utilities in New England. When Conrail offered a more attractive rate for coal, the utility pressured NS to reduce rates also. NS adamantly refused to change its rate initially, but then the forces of the marketplace took over. The utility used public forums to suggest that it would buy the more-competitive coal from the Conrail-served mines. The NS-served mine announced that if it lost the coal contract, hundreds of jobs would be lost and the mine might have to close. State officials and others who viewed the NS actions as anticompetitive exerted pressure on NS, forcing Norfolk Southern to establish a more-competitive rate. In fact, by being an aggressive competitor, Conrail continued to participate in a portion of the coal traffic, to the benefit of mines in both West Virginia and Pennslyvania, and to the ultimate benefit of consumers.

In another instance, one of our major shippers wanted to open a new coal mine to serve a major Midwestern utility -- a power company. That company was receiving most of its low-sulfur coal from mines in Kentucky and West Virginia located on other railroads. Conrail wanted to compete for the company's business and we wanted our shipper's new low-sulfur coal mine in West Virginia to succeed. The result is that a new railroad connection is being built to serve the mine. Conrail cut its rates to make coal from the new mine competitive. The utility will buy coal from this mine. Conrail will transport it. If Conrail were owned by NS, which serves the mines in Kentucky and West Virginia, this might never have happened. Why would NS cut rates without Conrail's competition? Why would NS spend money to build

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track to a new mine when it already served others? Without Conrail's competition, the ultimate consumers of electric power would have suffered.

There are many examples of Conrail acting as an advocate for the industries located in its territory, and making special efforts to allow those industries to compete with their rivals located on the lines of other railroads. There are examples in the coal market, the chemicals market, and the steel market. In fact, for almost every commodity we move, Conrail rate initiatives enable our shippers to expand their marketing opportunities, their operations, and their profits.

The Department of Justice report did not even attempt to address this kind of competition. In fact, it apparently ignored real movements of traffic, such as the ones I have just described, and it ignored offers by such affected parties as CSX for data related to actual point-to-point movements. Justice looked, instead, at competition within counties. Our Vice President of Law, Bruce B. Wilson, a former Deputy Assistant Attorney General in the Justice Department's Antitrust Division, told the Senate Judiciary Committee last week that the DOT analysis was "a questionable exercise, since traffic does not move in such patterns." But Mr. Wilson also noted that even the effects on "county competition" were enough to lead Justice to conclude that, standing alone, the merger would violate every existing merger standard.

To remedy these violations, the Department proposed a "quick fix" -- spinning off part of the merged system to smaller railroads. This would do nothing to remedy the loss of geographic competition. Moreover, the Justice Department scheme to remedy the loss of head-to-head competition will not work. I can say that with some knowledge because it's not a new idea. It was tried before and it failed.

With the creation of Conrail in 1976, the United States Railway Association granted the Delaware & Hudson Railway extensive trackage rights over the Conrail system to enable it to connect with the Norfolk and Western Railway at Buffalo, NY and the Southern Railway, Chessie System and Richmond, Fredericksburg and Potomac Railroad at Washington, D.C. The objective was to provide for added rail competition in the Northeast.

Instead, what was created was an uneconomical rail operation that in 1983 required the Delaware & Hudson to spend $1.05 in operating expenses for each $1.00 in revenues generated, and a company -- the D&H -- whose liabilities were almost one-and-a-half times its assets at the end of 1983. The D&H reported a net loss of $16.3 million for 1983. I might note that the D&H is one of two Class I railroads which are components of Guilford Transportation Industries the same company which was "approved" by the DOT as a buyer of NS/Conrail properties to enhance competition. The other Class I railroad component of Guilford Industries is the Boston & Maine Railroad, which posted a small net income in 1983 of $1.6 million on revenues of nearly $118.3 million. The B&M's liabilities of $69.8 million equal nearly 65 percent of its assets.

Similarly, other regional railroads, identified as possible operators of the yet-to-be spun-off portions of a merged NS/Conrail system, operated in the red in 1983. The Pittsburgh & Lake Erie falls into that category. In 1983, P&LE reported a net loss of almost $23.5 million on revenue of $43.2 million. Its overall liabilities equalled 88 percent of its total assets.

In brief, Norfolk Southern and DOT propose to divest lines whose acquisition, rehabilitation, and maintenance will require tens of millions of dollars. The divested lines are to be acquired by two carriers -- Guilford and P&LE -- who between them lost $75 million over the last three years. Traffic density on the lines in many cases is less than one-twentieth the traffic volume carried by competing lines retained by Conrail and NS. As Mr. Wilson pointed out to the Judiciary Committee, "The proposed divestitures are wholly inadequate as substitutes for the competition that will be lost."

Kevin T. Dowd, who testified on behalf of the Eastern Coal Conference at Pennsylvania Senator Arlen Specter's recent hearing to examine the anticompetitive aspects of a Norfolk Southern takeover of Conrail, observed objectively:

"The competitive influence that is exerted by Conrail is made possible by its size, independence, and the location of its lines as the main source of rail deliveries to the Northeast. One could not make up for the loss of a single, consolidated major competitor simply by granting trackage rights and gateway access to a number of small, regional carriers that lack the physical capacity -- even under the best of circumstances -- to go toe-to-toe with the CSX and Norfolk Southern Systems." A great many Conrail shippers have communicated similar views both to the DOT and to us in support of a public offering.

Finally, I need not remind you that Conrail is a leading advocate for competition in the railroad industry. While other railroads have only begun to adapt to a deregulated environment, Conrail immediately seized the opportunities presented by deregulation to become more competitive and responsive to shipper needs. We were the first railroad to withdraw from the rate bureaus where all rail rates had been set collusively for more than a century. We're still the only railroad to have done so. It seems incredible to us now that with all the railroads and the different places served by each, there was no competition between them. Those days are gone now, because Conrail sets its prices the way they are set in other businesses -- competitively. We still lead the industry in fighting for another right that most businesses take for granted -- the right of rail carriers to set their own prices on their portion of multi-carrier movements.

These initiatives have been controversial, and have been resisted by those railroads who like the old ways of doing business, but they meet the needs of our customers, and therefore, they have been successful in the marketplace.

Conrail's net income between 1980 and 1984 improved by approximately $745 million, even in the face of the serious recession that occurred in the middle of those years. The Northeast-Midwest rail system works because Conrail has made it work. Many have sacrificed to make it happen and to restore a company others perceived as lost, financially and as an entity. To subject the nation again to the high degree of uncertainty and trauma that would surely result from an NS takeover of Conrail would undo all the progress we have made.

Another aspect of the Norfolk Southern takeover plan for Conrail ought to bear careful scrutiny by the taxpayers. The Department of Transportation, in making its selection of the NS to acquire Conrail, stated that it was "based solely on who would best serve the interests of the public...and give the taxpayers the best rate of return possible" consistent with other criteria.

On close examination, there are a number of financial benefits and tax breaks which the Norfolk Southern would receive as a result of an acquisition of Conrail. Thanks to those financial benefits and tax breaks, it is conceivable that when all is said and done, a Norfolk Southern takeover of Conrail will have a net cash benefit to Norfolk Southern, perhaps in as little as five years, of hundreds of millions of dollars more than the $1.2 billion Norfolk Southern will pay for Conrail! Is that in the best interests of the taxpayers? The Department of Transportation says it is, because it advocates an NS takeover of Conrail.

That is not the main issue here, of course. The main issue is what is best for the transportation infrastructure of the country and competition and jobs.

But it is amazing to me that a formerly broken-down railroad system, for which the government paid some $1.8 billion (to the predecessor railroads), is being sold for some $1.2 billion, and the buyer stands to not only recover all of the price he will pay for it, but make money on the deal! If you desire, we can provide specific data on this matter.

Simply put, a public offering will bring the Treasury a greater return in future taxes, paid by separate Conrail and Norfolk Southern Companies, than will a sale of Conrail to Norfolk Southern. And the same will be true at State levels.

Mr. Chairman, stripping everything away, I believe the basics of this argument over how to sell Conrail really come down to the future of the company. When you look at the arguments being raised against the public offering, the only one that would prompt you to reject it and support Norfolk Southern is the one that Conrail has no long-term future. All the other arguments fall by the wayside and are no more than weak attempts to discredit a strong plan.

I believe the debate on the sale of Conrail is at the same time a referendum on whether or not Conrail does have a long-term future. If it has a long-term future - as I so firmly believe it does - the reasons for the private sale disappear completely as does the rationale for all of the covenants.

Parenthetically, I've always believed there were only two possible reasons for the covenants: either you didn't trust the buyer; or you didn't have confidence in Conrail's future.

Over the last few years we have finally achieved a truly consolidated company with all of the effects of combining six railroads into one wrung out of the system, the development of a true feeling of teamwork between management and labor, and a real sense of pride in the record and accomplishments.

Four years ago, the same Department of Transportation that has proposed the Norfolk Southern takeover of Conrail decided that Conrail couldn't make it, would be a drain on the U.S. taxpayers and should be split up and sold off in pieces. That prescription was wrong then. The prescription DOT offers four years later is wrong, too.

There's an old saying - "If it ain't broke, don't fix it." Conrail's not broke. It's doing just fine. What DOT has suggested is unneeded major surgery that carries with it large costs in terms of reduced employment, service and competition. We at Conrail, Mr. Chairman, do not believe those costs should be imposed on communities, shippers and employees when there is another answer.

Thank you. I await your questions.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF JIM BURNLEY, DEPUTY SECRETARY OF TRANSPORTATION

ACCOMPANIED BY DONALD A. DERMAN, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

LONG-TERM VIABILITY OF CONRAIL

Senator ANDREWS. Mr. Burnley.

Mr. BURNLEY. Thank you, Mr. Chairman.

When Secretary Dole got to the point last year where there were bids on the table for Conrail and it was time to begin the negotiated competitive bidding process, the criteria she had in mind all revolved around the remarks that you made, Mr. Chairman, and, Senator Lautenberg, that you made at the beginning of the hearing.

The long-term viability of Conrail is very much at issue, and that concern underscored the Department's consideration of this and ultimately led to the Secretary's decision to recommend that it be sold to Norfolk Southern.

Clearly, she said, Mr. Chairman, no one wants to see another multimillion-dollar bailout of this railroad. The USRA report that was put out by the USRA staff just this week underlines those concerns, and those concerns again drove her to the decision that she made February 8.

But clearly it is the case that Conrail, which has now experienced almost 6 months of economic downturn, does have a severe risk as to its long-term viability.

In fact, if I might call your attention to the USRA report itself, there is a very good table on page 43 which, as Mr. Berger recently testified, shows the cash flow of the company, and cash flow is, we think, the ultimate test of viability.

If you look at the numbers, using Conrail's own projections last May and then updated in December, which again have turned out in recent months to have been far more optimistic than has been the actual result, you will find that Conrail by the USRA study's own numbers would have to go borrow $260 million at a minimum over the next 4 years just to pay the dividends under the plan that they have proposed.

COMMENTS AGAINST CONRAIL MANAGEMENT PROPOSALS

Let me refresh everyone's recollection about that plan and why the Secretary's investment advisor, Goldman Sachs, said it was a threat to the viability of the company.

The Conrail management proposal would involve $600 million in preferred stock, the largest such issuance in American history, and also would result in the issuances of half a billion dollars in common stock, which but for one would be the largest common stock initial offering in American history.

That gets you to the $1.1 billion. On top of that, the Conrail management proposal would take $300 million out of the company on the day of closing, so if that proposal works perfectly, the company is weakened to the tune of $300 million on the day of closing, and in addition has assumed a dividend burden which on the face of the proposal is $126 million a year.

There are only two ways you can finance those dividends. Again, looking at the very numbers that USRA gave us this week, you either have to further deplete the cash of the company well below the levels that we believe are safe for the company or you have to go borrow it, and again, it would require new borrowings of a minimum of $260 million.

I do not think upon even the slightest reflection that one can be sanguine about a proposal that on its face, if it works perfectly, has that kind of effect on the company's performance.

COMMENTS FAVORING NORFOLK SOUTHERN PROPOSAL

Now, the Norfolk Southern proposal, as I think everyone is aware, is constrained by quite a list of covenants and by a stiff set of competitive requirements set by the Justice Department.

I will not take the time now to review those one by one, but suffice it to say that the Secretary and the Department believe that the long-term viability of Conrail, the interest of the region it serves in seeing those basic service patterns preserved, and the jobs of its employees will be best served by a sale to Norfolk Southern.

I might add Mr. Crane mentioned a moment ago the activities of BRAC. The largest union on the Conrail system, the united transportation union has spoken out repeatedly and quite strongly against the public offering scenario because of their concerns about the long-term viability of that approach.

Mr. Chairman, with respect to the issue that was on the table when the hearing was announced, and that is the future of USRA, the administration position, I think, has been spelled out in the budget.

It is our hope and expectation that Congress will pass the necessary enabling legislation this year, and it will be possible to complete the transaction this year, thus eliminating the need to continue USRA.

I might add that USRA in our judgment has done a very professional job, and I think that the study they have just put out, which indicates, as I say, the reason for our concerns and underscores those concerns, is a pretty good example of that quality and professionalism.

[CLERK'S NOTE.—The prepared statement of Mr. Burnley appears with questions related to the Office of the Secretary budget.]

SPECIFIC USRA STUDIES

Senator Andrews. Thank you very much.

Mr. Berger, what specific studies is the USRA responsible for during the rest of fiscal year 1985 and planned or anticipated for 1986?

Mr. Berger. Mr. Chairman, as I mentioned, first we are required under NERSA to report to Congress on Conrail's financial performance. In order to do that, we have been conducting a series of ongoing studies both of Conrail's operations itself as well as a series of annually updating studies of other class 1 railroads for comparative purposes.

The results of that, for example, are part of the study that we released this week. In addition, I mentioned before some of the specific studies we are now conducting at the request of different congressional members or committees.

Senator Andrews. Do you feel that these requirements mean that you have yet another series of studies to release during the months yet to come?

Mr. Berger. If we are to respond to the congressional requests that is certainly true. Clearly, as you know, we have not asked for additional funding. Obviously, if a transaction takes place and the railroad is sold, I absolutely agree with——

Senator Andrews. So you feel the mandated studies are completed with the report that you issued a few days ago?

Mr. Berger. No; the mandate continues until the railroad is sold. As long as Conrail remains in its present ownership position, I believe NERSA requires us to continue to study and continue to report to the Congress.

Senator Andrews. Are you not eventually going to get into a situation of reporting on reports? I mean, you have now finished a report on the outlook for Conrail in the future. How do you report yet again on the outlook for Conrail?

Mr. Berger. Well, this comes to really a more central point about Conrail which we might get into in substance, and that is we are dealing not with a static situation but with a dynamic situation. We are dealing with a functioning company and we are dealing with changing economic conditions.

We point out in our report, for example, that if you look at the out years, while we were able to really update and change the early years of the study, the projections—the last 2 years of the report—are based on projections that were made several years ago.

As I have said to you before, Mr. Chairman, the question is whether the Congress believes that it is necessary and important to maintain an ongoing review of the situation. We are not dealing with a static situation.

I mean, just if you look at traffic changes, if you look at business changes, if you look at problems in the Northeast, I believe that the intent of NERSA was that there would be a continuing monitoring of changes that take place.

CONCLUSIONS ON REPORT

Senator ANDREWS. Well, you have released the report you mentioned in your original testimony.

In summary, what are the major conclusions of that report?

Mr. BERGER. I was listening to both Mr. Crane and Mr. Burnley each quoting sections of the report. So I guess it is what we hoped it would be, which was reasonably objective.

Senator LAUTENBERG. There have been differences on the Bible, too.

Mr. BERGER. I understand. It is a useful tool for arguing.

USRA CONRAIL REPORT

Senator ANDREWS. But you tell us that you can revise this report down the line because it is a constantly changing thing, so what we want to do is find out what this snapshot in time that you have just released does indeed and in fact show before you decide you are going to have to revise it 3 months from now.

So, what is the current status of your report?

Mr. BERGER. The current status is that when we began this process, when NERSA began the process which looked toward the sale of Conrail, we were looking at a corporation which we did not know whether it was really a viable or nonviable entity.

And by the way, the purpose of this report was not to comment on the sale, but to talk about Conrail as it exists now and as it exists as an entity. The major difference in the 4 years is that we are now not talking about a sick corporation.

We are talking about a functioning railroad which performs and operates within the range of class 1 railroads some place in the middle, and which has some stability and which has demonstrated competence. It is a railroad. It is not a growth company.

It is not a high tech company. This is a railroad with performing characteristics of railroads. It operates in a region in which the external economy is still very sensitive to a variety of potential changes.

What this snapshot says is that under Staggers and using the tools that the Congress gave Conrail, that you have the capacity in the railroad to respond to changing economic environment, to maximize what it has operating in its territory, and to function and to survive.

That is not to say whether it should be sold to the Norfolk Southern or stand as a public entity. The snapshot says this is a working corporation, leaving aside the issue of ownership and who owns the stock.

If you look at this as you would look at other railroads, Conrail is now a railroad which can be measured against normal standard performance, and in fact in a whole variety of characteristics it is doing pretty well.

AN INDEPENDENT CONRAIL

Senator ANDREWS. In other words, what you are telling us is that your current study backs an independent Conrail.

Mr. BERGER. It could. But on the other hand, you could also say that over the long term a sale or a transaction is one which might be in the

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public interest. The issue—remember, if we did not have a healthy railroad. I am not trying to beg the question.

I mean, I said to you many years ago that if I had my ultimate druthers, I believe the national rail picture is going to work out so that ultimately we will have transcontinental railroads and additional mergers. That still is something that is coming.

But in the specific case you have here, you are talking about a company which is a functioning, surviving company. We have a lot of very wealthy and successful companies that are merged out these days in the American economy.

The crucial issue which is so easy to forget now, unless you were there at the outset, is that this is now a surviving railroad and should be treated as an economic entity. The judgments you make for an economic entity are ones you could make about other corporations.

There are service and policy issues you have to make which are the key questions as to whether this merger makes sense. Could Conrail be merged into something else? Of course it could. Can it stand as an independent company? I believe it probably could.

The reason I believe that is we are in a deregulated environment. I do not believe the situation in the Northeast is stable. That is changing. If you took away the deregulation from this environment, this railroad, like so many other railroads, would be in very deep trouble.

TRIGGER OTHER MERGERS

Senator ANDREWS. What you are suggesting to me is that if Norfolk Southern is permitted to buy Conrail, it looks like there is a real likelihood that this will trigger a railroad merger war unprecedented in our rail transportation history.

Mr. BERGER. I am not sure that is going to take place at this point.

Senator ANDREWS. You were certainly leading up to that in your rhetoric a moment ago.

Mr. BERGER. No; I was leading up to the fact that I think the consolidation of the national rail picture is not over. What has been basically happening is that changes have been taking place in the West. You have had a sorting out, in a sense, without Government ownership and direct intervention.

You have had a sorting out in the West with the creation of more stable and more long-range lines. You have had some of that in the East as well with the CSX and Norfolk Southern merger.

CONRAIL SALE IMPACT

Senator ANDREWS. But you are bringing up the possibility that while such a merger might ultimately benefit one or two roads, other railroads and the shipping public could well be put in real jeopardy.

Mr. BERGER. That is correct. I think you have to look at——

Senator ANDREWS. Well, I thought that was what I heard you say.

Mr. BERGER. You have to look at each merger and ask questions as to whether that particular transaction has competitive and service impacts in the region. That is the major question with this particular transaction. I do not think it is necessarily wrong that another railroad buys Conrail any more than I think it is absolutely right that it has to stand alone.

You have to look at this particular transaction, and you have to look at some of the issues that have been raised. My laundry list of people who helped make Conrail successful includes the people who have to be talked to as to whether or not this merger makes sense. I include the shippers who have been talking to me at the very top of that list.

CONCERN FOR SHIPPERS

Senator ANDREWS. I know, but when you suggest, as you just have, that other railroads and the shipping public could be put in real jeopardy, you are going down the line with today's Journal of Commerce editorial which, as you know, is critical of the Conrail sale proposal, and raises the issue of terminal shipping points and the prospect of Norfolk Southern's ability to restrict gate access, terminal switching agreements, and thus limit competition.

What has been the history of such activity by Norfolk Southern?

Mr. BERGER. I did not use the word "jeopardy." I am not at the word "jeopardy." The Journal of Commerce got there before I did.

Senator ANDREWS. You pointed out a minute ago that you felt that the shipping public could well be put in real jeopardy, and that is, of course, what the Journal of Commerce concludes.

Mr. BERGER. The difficulty at this point is knowing in all frankness—for example, Congressman Florio has asked us a series of questions which would try to elicit a conclusion.

One of the difficulties that the USRA staff has at this point is that the kind of information—well, let me back up for a minute if I may, Senator.

The Justice Department—in traditional rail mergers—does a particular type of inquiry, and traditionally the ICC does another kind of inquiry, and the Department of Transportation does its study. The kinds of questions, for example, relate to the operating plan that a merger would result in, the operating plan of the different railroads, the Norfolk Southern operating plan, the PL&E operating plan, the Guilford operating plan.

If you ask, will there be jeopardy, and I cannot say there will, you have to take a look at the operating plan, what is the traffic, what will the diversions be, what will happen. There are some things you know will happen.

Gateways will change. Norfolk Southern has a Kansas City gateway. That has one impact. There will be diversions of traffic out of the Conrail territory. Traffic that now comes into Conrail either on the CSX or off the Seaboard or off the Southern—there will be changes.

I cannot tell you, frankly, at this point what those changes will look like, because we do not have those operating plans.

Senator ANDREWS. But the limiting of competition through these restrictions, what type of effect would that have on Midwest shippers?

Mr. BERGER. I can only speak hypothetically, since I do not know exactly what is going to happen. It could have an impact.

Senator ANDREWS. And that is what we want to get out on the table.

Mr. BERGER. That is right. Those are exactly some of the kinds of studies we are looking at. I mean, I have people in my region, and I try to distinguish—Senator Lautenberg knows I am trying to distinguish, being someone from the New York-New Jersey region—between particular local regions with national policy.

THE OPERATING PLANS

Senator ANDREWS. But do you have those operating plans?

Mr. BERGER. No, sir.

Senator ANDREWS. Do you know anyone in Government who made the decision on this sale, who said the sale was in the interest of the general shipping public, who has those plans?

Mr. BERGER. No, sir.

DEPENDENCE UPON CONRAIL

Senator ANDREWS. Let me point out that we in North Dakota have a Philadelphia connection, and people might not realize that. But we do.

I have a good friend, Allyn Fagerholt. He is a potato grower. His farm is about 90 miles north of mine. He ships a lot of his product to Philadelphia through Chicago. Now, he has written me, contacted me, and his concerns are primarily the existing freight rate, which is already a substantial part of the cost for those in Philadelphia who purchase his product.

Without effective competition, Allyn Fagerholt feels these costs could be somewhat higher. He is not sure that a sale to Norfolk Southern would provide him equal or better service. He feels that shippers outside the Northeast have been ignored, and frankly, he is concerned.

And having that contact from Allyn Fagerholt, potato producer from North Dakota, who is typical of the small shippers, who has got to get his product to Philadelphia, I am concerned about that Philadelphia connection.

If our colleagues, Mr. Heinz and Mr. Specter, are concerned, it also affects many more of us than just those who represent the Pennsylvania area and the Northeast, and when you say that you don't know what the operating plan will be, what happened to the assurances that we got from the Department of Transportation that the protection of the shippers had been assured in the negotiations and in the ground rules established for the sale of Conrail?

Mr. BURNLEY. Can the Department answer, Senator?

Senator ANDREWS. Oh, sure. That is why we have you on the panel. Mr. Berger's answers are, you know, sort of going along with my fears, so now you can contradict him.

Mr. **Burnley**. In fact there is no mystery about operating plans, and the Justice Department, as I think everyone knows right now, is looking at precisely how Guilford and P&LE would operate once the lines were divested.

But one reason that we see it as healthy as it is, even though it is still fragile is that Conrail has been known, since the passage of the Staggers Act for its aggressive competition both with the trucking industry and railroads.

I think you will find that there is a consensus in the railroad industry that nobody has closed as many gateways or canceled as many joint routes as Conrail has. They have been tough competitors.

Norfolk Southern has made it very clear repeatedly both in congressional testimony and in meetings with shippers all over the Conrail service region and outside that region that it intends to reopen a lot of those gateways. It intends to reinstitute a number of the joint routes.

And that is why I think we have been presented with a list of over 1,300 shippers who have endorsed the Norfolk Southern-Conrail merger.

The key question, however, remains the long-term viability of the railroad, and if the railroad gets in trouble again and comes back, Mr. Chairman, as you suggested, for a multibillion-dollar bailout, the one thing we can be sure of is that that service is not going to be what you want.

In fact, again, if I might refer to what Senator Lautenberg described as "the Bible," the USRA report that came out just this week, they address this issue head-on. They say that under current law, in other words, the consequences of prolonged traffic decline is service contraction or disinvestment in order to preserve the viable parts of the system.

Cross-subsidy of unprofitable service thus is limited by the need for aggregate profitability sufficient to maintain the entire network. This dynamic has long been the norm for American industry, including the customers of its railroads. But it is still a recent phenomenon for the railroads themselves.

These concerns are not idle. If you look at what has happened both with Conrail and its predecessor railroads since World War II, and I have a chart here that takes it since 1964, there is a very clear and unfortunate trend in tonnage on the Conrail system, and it is straight down.

What has happened since NERSA was passed is that because of the very fine and aggressive management of Conrail, they have been able to cut their costs very substantially. You have a railroad where there used to be 100,000 employees. They only have 38,000 today. In fact, the current projections say they are going to eliminate another 4,500.

So, you have a railroad that has been managed very efficiently, but you do not have a railroad that has any recent history or any prospect in the future for that traffic turning around. In fact, these optimistic projections of Conrail management show traffic declining again from 1984 to 1985.

REGIONAL TRENDS

Senator Andrews. I understand those concerns over an economic decline, but are you speaking for this administration?

Mr. Burnley. Senator, I am talking about the long-term pattern. I was not speaking about a particular economic decline, because in good times and bad the trend has been the same.

Senator Andrews. Let us get this stuff into perspective, one, two, three on the table. You are the administration's spokesman at this table.

Mr. Burnley. Yes, sir.

Senator Andrews. Fine. You have just told this subcommittee that because of your expectations of an economic decline, that the sale of Conrail has to be done now.

Mr. Burnley. No, sir; that is not correct.

Senator Andrews. Just a minute. That is what you said. You showed this economic decline.

Mr. Burnley. Since 1964——

Senator Andrews. Yet other administration spokesmen from the Secretary of the Treasury up to the President himself have told those of us who sit on the Senate Budget Committee that the economic indices are going up. You cannot have it both ways.

Mr. Burnley. Senator, I am not trying to have it both ways. With all due respect, that is not what I said. I said very precisely that the region Conrail serves has been since 1964 in long-term decline in tonnage it generates for the railroad. That is precisely what I said, and I do not think I said a word about national economic conditions.

Unfortunately, this is a well-established historical trend, and it is a trend that we see no reason to believe is going to change in the foreseeable future, and this includes periods both of very good economic recovery in this country, including the current period, as well as periods of economic decline.

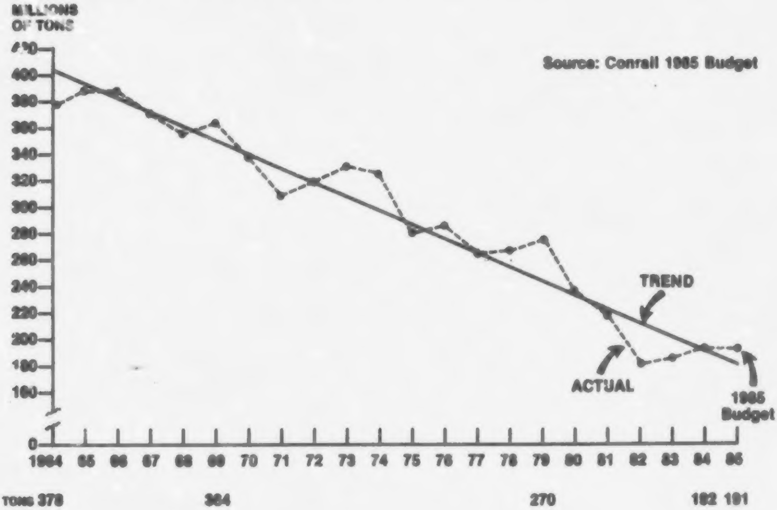
I was not speaking at all of national economic conditions.

Senator Andrews. But the reason the cash flow is anticipated by you to go down is, as you just showed in that chart, because economic conditions are going to decline. That is not the story we get from other administration economic spokesmen. You can figure it either way you want to.

[The chart follows:]

ANNUAL FREIGHT TONNAGE

Forecasted traffic for budget year 1985 is about the same as 1984—191 million tons for 1985 versus 192 million tons in 1984.



Source: Conrail 1985 Budget

QUESTION OF ACCESS

But let us get back to this access that we are talking about and again cite the Pennsylvania connection with North Dakota. I have a letter from North Dakota Mill & Elevator. Mill & Elevator ships all kinds of semolina into the area. As a matter of fact, the Hershey Corp. buys more semolina and produces more pasta products than any other company in this country, and it gets its supply from North Dakota.

The manager of the North Dakota mill, Sam Kuhl, who is a good friend of mine, writes me and talks about Conrail and how Conrail has been very good to the North Dakota mill and the State of North Dakota.

Then he goes on to say:

> We are very concerned since the Department of Transportation has selected Norfolk Southern as the winning bidder. Our biggest concern is that competition must be maintained. As you know, without competition, rates eventually will skyrocket. The result will be higher prices for everyone.
>
> This could have a mushrooming effect with the mills and businesses in the West being priced out of the market, forcing cutbacks in production and loss of jobs.

Now, Sam Kuhl goes on with a suggestion. Sam is a pretty independent individual, and he figures he knows as much about running railroads as most everybody else, particularly when those of you who sit at the table say you really do not know what Norfolk Southern plans to do, so Sam anticipates.

He says:

> Perhaps an alternative proposal is in order. Open the sale of Conrail to the other railroads in the United States, preferably the western railroads. These carriers could buy Conrail stock at whatever purchase price they feel comfortable with or could agree upon, hopefully around 10 percent per carrier.
>
> The stock purchasing railroads would have the financial resources, railroad experience, long-term commitment to ensure that the taxpayers will not have them back on the tax rolls, taking care of my initial concern. * * * If these railroads did not buy all the stock available, the balance could go up for public sale. If the $1.2 billion was not raised, Congress would still have the option to decide the disposition of Conrail.

But he goes on to point out, and this is pretty darned important—this comes from a guy who ships agricultural products from my State into the Northeast, not unlike my friend, Allyn Fagerholt, who has the Philadelphia connection.

He goes on to say:

> The present management of Conrail would remain in control under the watchful eye of the railroad stockholders. We feel this would ensure a strong future for Conrail and keep competition to the Northeast for railroad traffic.

Now, I have talked with the Secretary many times about Conrail, and I may not have even mentioned these. Well, I do not know if I would not have mentioned them, but I may have been less likely to mention them if the statement had not come from the table 10 minutes ago that you really do not know what Norfolk Southern plans to do to keep competition open.

That to me represents a whole new ball game, and I am concerned, and I think other Senators are going to be concerned, and I would appreciate any comment you might have on that.

Mr. BURNLEY. Senator, we certainly would be happy to share with Mr. Berger whatever information we can on that subject, because it is no secret over at the Department of Transportation how Conrail will be operated as a part of NS.

COMPETITION ISSUE

Let me just mention two other points in response to the letter you just read. In fact, the opportunity to participate in the purchase of Conrail was open to all the western railroads as it was to any entity or individual in this country, because we had an open competitive bidding process.

And that process occurred only after Goldman Sachs and the Federal Railroad Administrator had individually contacted more than 100 of the largest corporations in this country, including all of the major western railroads.

In fact, as many of you are aware, the Santa Fe took a serious interest in the late summer of 1983, and even sent a team to Philadelphia to study Conrail, and then found another sweetheart, and we were at the time distressed that we lost them as a potential bidder.

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But the standard that the Justice Department used was a very procompetitive standard, and a very stiff standard. And it can be best capsulized as follows: Where there were three railroads competing before there will be three after the sale. Where there were two, there will be two. I think it is very, very important that there be no doubt and no misunderstanding about the requirements of Justice.

In the debate on this matter and as the rhetoric flies, I think people sometimes lose sight of the fact that as the Justice Department said, without some substantial adjustments we would not be able to make the sale to Norfolk Southern because of its anticompetitive impact.

But they outlined a stiff prescription which Norfolk Southern has agreed to fulfill, and the Justice Department said if all those requirements were met that then the competitive impact of the sale would be slight, and that the efficiencies gained by having the merger would be very substantial.

Again, I would be happy to share with the committee and with Mr. Berger and his staff any information they need so that there is no air of mystery about this. There should not be at all.

COST SAVINGS

Senator ANDREWS. While the Conrail sale does not require ICC approval, it might be of interest to develop information similar to that required for ICC procedure. Generally railroads attempt to justify any anticompetitive impacts of mergers on the basis of savings to the public that the merger makes possible.

Have any studies been done of the cost savings possible from a Conrail-Norfolk Southern merger?

Mr. BURNLEY. Yes, sir; we have a good deal of information in the Federal Railroad Administration. I would be happy to share that with the subcommittee. It shows that you have very substantial cost savings.

For example, on north-south movements today where Norfolk Southern brings commodities from the South headed toward New England or toward the Northeast, or when movements are headed from the Northeast to the South, Norfolk Southern cannot get beyond the Washington area.

So you have to go to the Potomac Yards. You have to switch. And a shipper pays a switching fee, and the shipper also has to suffer the delay. It sometimes can be a day or more while that switching goes on. That would no longer be the case after a merger.

And frankly, with all due respect to CSX, I think that is one of the reasons that they have been heard from so loudly on this, because they recognize that also, and this would give a Norfolk Southern-Conrail system a much stronger competitive edge to compete with CSX on major north-south movements.

It is important to remember that this merger would not just be a merger in the Northeast, but it would for the first time create competition with CSX on that north-south route that does not exist today.

Senator Andrews. Mr. Crane, have you seen that study?

Mr. Crane. I have not seen the study, Mr. Chairman. In any merger that I know of heretofore there has been a complete revelation of the operating plans and also the pro forma estimates of the two companies.

Let me say from my perception all along the Department of Transportation has said we have studied this thing. Take our word for it that the Norfolk Southern is a strong company, and with Conrail will continue to be a strong company.

I would suggest to you that the Norfolk Southern is no more recession- or depression-proof than any other railroad in the country. I would like to see some pro forma statements and an operating plan that you could intelligently look at. That has not been made public.

Senator Andrews. Nor have you seen nor had the opportunity to comment on or be a part of the plan that Mr. Burnley just said that they have drawn up that shows considerable protections and savings for shippers?

Mr. Crane. That is correct, sir.

Senator Andrews. He is going to provide that plan for the record. We would request that you comment on that plan, which we will supply to you the minute we get it, so that your comments on that plan can be made a part of the record as well.

Mr. Burnley. I am sorry, Senator, I do not know what plan that is. I said I would be happy to supply data from our studies on the efficiencies of north-south movements. I do not know about a plan.

Senator Andrews. You told us that you had developed data in response to my question, have any studies—let me read back my question. I said, Have any studies been done of the cost savings possible from a Conrail-Norfolk Southern merger?

Mr. Burnley. Yes; we will be happy to supply that.

Senator Andrews. I addressed the justification and anticompetitive factors, and you said yes, we have done these studies.

Mr. Burnley. We will supply that.

Senator Andrews. Those are the studies that I would like to have you supply the committee, because we would like Mr. Crane to comment on them.

We also want operating plans and pro forma statements so that we can have the benefit of them, although we understand as a matter of fact they are not available, or at least you did not think they were available.

There seems to be a closed loop around here. Steve Berger had not seen the operating plan when we asked him. Mr. Crane has not seen your study of benefits to the shipper. If we can get these out and then have comment on them, then we will have a more complete record.

Mr. Berger. I have to point out that my staff has been meeting with the Norfolk Southern, and in fact I was told this morning that they have plans for something like 15 of the next 21 working days to meet with the Norfolk Southern people to try to develop the information and the data regarding some of these traffic issues.

[The information follows:]

VERIFIED STATEMENT
OF
LOUIS M. NEWTON

My name is Louis M. Newton. My business address is Eight North Jefferson Street, Roanoke, Virginia 24042. I am Assistant Vice President Transportation - Planning for Norfolk and Western Railway Company (NW), which is one of the principal railroad subsidiaries of Norfolk Southern Corporation (NS). I have been employed by NW for more than 35 years and have held my current position since July 1, 1983. Prior to that time I held positions of increasing responsibility in NW's Mechanical and Transportation Departments including most recently Assistant General Manager Transportation and Director Operations Planning. I graduated from the University of Tennessee in 1949 with a Bachelor of Science Degree in Mechanical Engineering.

In my current position as Assistant Vice President Transportation - Planning, I have broad supervisory and planning responsibilities for NW operations and for coordination of transportation, engineering and mechanical activities on NW. In addition I work closely with my counterpart on Southern Railway Company (Southern) on projects which affect all NS system carriers.

Because of my experience in transportation planning and coordination, my knowledge of NW operations as well as operations throughout the NS system, and my familiarity with railroad operations throughout the Midwest and Northeast, I was assigned to supervise and coordinate certain operating aspects of the NS study of benefits resulting from the NS purchase of Consolidated Rail Corporation (Conrail). In preparing that study I worked with officers from various NS departments including Engineering, Mechanical, Costing, Labor Relations, and Corporate Planning, with NW Transportation officers in the field, and with representatives of Southern's Transportation Planning Department. The NS study was based upon my personal knowledge and experience, the personal knowledge and experience of other NS, NW, and Southern officers, and our study of Conrail properties and operations which included an inspection of certain Conrail lines.

The results of our study of the operational changes proposed for the NS/Conrail system are attached to my verified statement. The anticipated service improvements and savings will benefit our customers, either directly or indirectly, as well as Norfolk Southern. I do not believe these anticipated benefits could be achieved without an NS purchase of Conrail. Under NS ownership Conrail and the other NS railroads will be operated for the benefit of the NS system as whole, making attainable the efficiencies, economies, and service improvements developed in the attached study.

NS and Conrail will also achieve local train operation savings and efficiencies, mostly in eastern Ohio and central Indiana and on Conrail's Chicago-Danville, IL line. These changes are in addition to the internal reroute benefits from reflowing NS and Conrail traffic over the most direct principal routes of the combined system.

III. Major Terminal Coordinations

Consolidation of NS and Conrail traffic flows and rerouting of traffic over new main line routes will affect NS and Conrail operations at common points and major terminals. Proposed changes are described in Attachment IV.

IV. Major Shop Consolidations

Rerouting of NS and Conrail traffic, use by the consolidated system of Conrail terminal facilities at many common points, intensified use of Conrail's Elkhart and Avon yards, and the divestitures will permit the consolidation or conveyance of shops at a number of locations. Proposed shop changes at major terminals are shown in Attachment IV.

V. Abandonments and Divestitures

Internal rerouting of NS and Conrail traffic would permit the abandonment or downgrading of certain NS and Conrail lines. Prior to divestitures, it was determined that abandonments would include 933 route miles on NS and 447 route miles on Conrail -- a total of 1,380 route miles. Divestitures to Guilford and PLE reduce the proposed abandonments on NS and Conrail to 455 route miles. Attachment V shows current proposed NS and Conrail abandonments and lines proposed for sale to, transfer of lease to, or trackage rights for Guilford and PLE.

VI. Investments and Other Capital Expenditures

Prior to divestitures it was determined that creation of the principal main line routes and through train service for the NS/Conrail system would require construction of track connections at 12 locations:

Fairview, PA
Cincinnati, OH
Dunkirk, OH
North Findlay, OH
Oak Harbor, OH
Vermilion, OH
Butler, IN
Claypool, IN
Ft. Wayne, IN
Muncie, IN
Spriggsboro, IN
Chicago Ridge, IL

Additional track connections for local service would be needed at 14 locations. The planned divestitures will eliminate the need for certain of these track connections.

A significant increase in traffic is expected over NS's Kansas City line. Expenditures for the Kansas City line include passing track extensions at four locations and upgrading the traffic control system between Hannibal and

Moberly. Conrail upgrading work would include installation of a new traffic control system between Columbus and Ridgeway, OH, and tie and surfacing work between Bellefontaine and Springfield, OH.

Capital expenditures at terminals include upgrading Conrail's Sharonville Yard near Cincinnati, and construction of a new car repair shop at Sharonville. Intermodal expenditures include construction of a new intermodal terminal at the NS Joyce Avenue Yard in Columbus, OH and upgrading Conrail's Detroit intermodal facility. Other terminal expenditures include upgrading trackage in Conrail's Junction Yard at Detroit and the IHB's Blue Island Yard in Chicago. Other capital expenditures include signal changes involved in retiring the second main track on NS lines between Oakwood and Adrian, MI and between Decatur and East St. Louis and tying together the NS and Conrail computer systems. Attachment VI shows the estimated initial investment (without divestitures) required to combine NS and Conrail.

VI. Equipment Needs

Surplus Conrail freight cars of several car types will be available for use on NS during the years after the consolidation. As a result, NS will realize a savings from deferral of capital expenditures for new freight cars to meet anticipated service demands on NS. The amount of savings will vary depending upon future traffic levels and flows. Surplus Conrail locomotives are expected to be sufficient to handle anticipated increases in ton miles throughout the NS/CR system during the study period.

VII. Employment

Attachment VII shows the NS estimate of NS and Conrail positions affected by the consolidation, broken down by craft.

The position totals are after adjustment for anticipated effects of the divestitures, but do not reflect additional positions expected to be created to handle diverted traffic. The net employment impact is estimated to be approximately 1,200 positions. The annual attrition rate on NS and Conrail is more than triple the anticipated net employment impact. Pursuant to Paragraph 2 and Exhibit A of the Memorandum of Intent between NS and the Secretary of Transportation, NS and Conrail employees adversely affected by the NS purchase of Conrail and by the divestitures will be entitled to the protections afforded by the conditions adopted in New York Dock Ry. - Control - Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

(CLERK'S NOTE.--Principal route maps pre-and post-diversion for attachment I were not supplied to the committee.)

ATTACHMENT II

NORFOLK SOUTHERN/CONRAIL
MAIN LINE ROUTES
MIDWEST AND NORTHEAST*

1. North Jersey/Philadelphia/Baltimore-Harrisburg-Pittsburgh-Cleveland-Elkhart-Chicago

   The present Conrail route through Conway Yard near Pittsburgh will be utilized thence via Alliance, Cleveland, Toledo, and Elkhart to Chicago. Conrail's Elkhart Yard will be the principal classification yard for the Chicago and Streator gateways. NS customers in the Pittsburgh and eastern Ohio area will be served from Conrail lines at major common points. [NS Cleveland-Chicago]

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* Material in brackets [ ] shows the principal former route or routes prior to NS/Conrail consolidation.

2. Boston/New York/North Jersey-Selkirk-Buffalo-Cleveland-Chicago

   Conrail's line will be used with NS's traffic to be blended into Conrail's. NS's local customers between Buffalo and Cleveland, inclusive, will be served by Guilford. [NS Buffalo-Chicago]

3. Detroit/Toledo-Chicago

   This new route will consist entirely of Conrail's line between Detroit and Toledo and its main line between Toledo and Chicago via Elkhart. Conrail's other through service between Detroit and Elkhart via Ann Arbor, Jackson and Kalamazoo, Michigan, will also be retained though this alternate route will be reduced to feeder line status, involving numerous intermediate pickup and setoff points in Michigan, including branches to Lansing and Grand Rapids. The same feeder status will apply to NS's Detroit route via Montpelier and Adrian. [NS Detroit/Toledo-Ft. Wayne-Chicago]

4. Cleveland/Buffalo/Pittsburgh (and East)-St. Louis

   Conrail's and NS's existing business originating or terminating Cleveland/Buffalo and East will be fed into and routed over Conrail's existing main line via Galion, Marion, Bellefontaine, Muncie and Indianapolis (Avon), with the latter serving as the principal intermediate classification point for St. Louis gateway traffic. Traffic from Pittsburgh and beyond will move via Crestline, where it will join the flow through Indianapolis/Avon. [NS Pittsburgh-Bellevue-Ft. Wayne-Decatur-St. Louis]

5. Cleveland/Buffalo/Pittsburgh (and East)-Kansas City

   Kansas City gateway traffic from Cleveland, Buffalo, Pittsburgh and eastern points will move via Conrail's main lines to Cleveland, thence to a new connection with NS at Vermilion, Ohio, to Bellevue for classification and movement over NS's present main line through Fort Wayne, Decatur and Moberly. Bellevue will be the principal classification yard for Kansas City traffic, while Decatur and Moberly will serve as principal intermediate "block swap" points to maximize makeup potential for solid Kansas City connection trains. [CR St. Louis-Chicago]

6. Detroit/Toledo-St. Louis/Kansas City

A combination of the present Conrail and NS routes will be used, operating via Conrail's line from Detroit to Air Line Junction in Toledo, thence via Conrail to Butler, Indiana, then via NS to Fort Wayne and Muncie, thence via Conrail to Indianapolis (Avon) and St. Louis. The entire movement to St. Louis will be over trackage which has already been upgraded. An alternate route will be available using Conrail's north-south line between Detroit/Toledo and Ridgeway, Ohio thence Conrail's east-west main line to Indianapolis and St. Louis.

Kansas City traffic will be handled via the above route to Fort Wayne, thence NS's existing route to Kansas City via Decatur and Moberly. [NS Detroit-Montpelier-Butler]

7. Cincinnati/Portsmouth (and East)-St. Louis

Traffic originating/terminating on NS's present system east of Cincinnati and Portsmouth, Ohio, will be routed via NS's line through Cincinnati, New Castle and Muncie, thence via Conrail's main line to St. Louis through Indianapolis. [NS Muncie-Frankfort-Decatur-St. Louis]

Cincinnati/Columbus/Portsmouth (and East)-Kansas City

Business for Kansas City originating or terminating at Cincinnati or Portsmouth and east thereof on NS's present system will be routed via NS's line as far as Muncie, thence over Conrail's main line through Indianapolis and St. Louis, operating from there to Moberly and Kansas City via NS. Traffic to and from Columbus, Ohio (and points east of Columbus on Conrail in southeastern Ohio and West Virginia) will be handled via Conrail's line to Ridgeway, where it will move to Kansas City via Indianapolis and St. Louis. [NS Frankfort-Decatur-Moberly]

9. Chicago-St. Louis/Kansas City

Due to Conrail's circuity via its principal present route through Indianapolis and the downgraded status of its most direct route via Danville, traffic on the combined system will move entirely via NS's route from Chicago through Decatur, Illinois. Chicago-Kansas City traffic will continue to be handled via NW's Decatur-Hannibal-Moberly route. [CR Chicago-Danville]

10. Portsmouth, Ohio (and NS Points East of Portsmouth)-Chicago

Traffic moving between Chicago and points on NS's present system east of Portsmouth will move over NS's line from Portsmouth to Columbus, then via Conrail to North Findlay, Ohio, then via NS to Fort Wayne and Claypool, then via Conrail through Goshen and Elkhart to Chicago. Chicago coal trains off NS and any run-throughs not requiring classification at Elkhart will move via this same route except they will remain on NS's main line west of Claypool.

11. Cincinnati (and South)-Chicago

This traffic will move on NS's line from Cincinnati via

Fort Wayne to Claypool, thence via Conrail through Goshen to Elkhart and Chicago on Conrail's east-west main line. NS intermodal trains and any run-throughs not requiring classification at Elkhart will operate via NS's line to Chicago.

12. Cincinnati-Detroit/Toledo, Pittsburgh, Buffalo

Traffic moving between Cincinnati and the above points and beyond will be routed via Conrail's line through Dayton and Springfield to Bellefontaine, then over Conrail's Cleveland-Indianapolis main line to Ridgeway. From Ridgeway, the Detroit/Toledo trains will operate over Conrail's line through Dunkirk and Findlay to Toledo and Detroit. Pittsburgh and beyond trains will move over the Cleveland-Indianapolis line as far east as Crestline, then to Conway via Canton and Alliance. Buffalo and beyond traffic will be handled on this same route from Cincinnati to Crestline continuing on to Cleveland, and beyond. [NS Cincinnati-Ft. Wayne-Montpelier-Detroit; Cincinnati-Muncie-Bellevue-Pittsburgh; Cincinnati-Muncie-Bellevue-Buffalo]

(CLERK'S NOTE.--Maps for attachment III could not be printed in this document.)

ATTACHMENT IV

NORFOLK SOUTHERN/CONRAIL MAJOR TERMINAL COORDINATIONS

1. Chicago

IHB's Blue Island Yard will become the Chicago train makeup and classification yard for nonintermodal merchandise traffic. NS's Calumet Yard would be used solely for industrial support. Landers Yard would be used to load present and future NS intermodal traffic (southwest and westbound as well as the Cincinnati trains), while all other TOFC/COFC would be handled at Conrail's Park Manor Yard, with overflow moving through Conrail's 47th Street Yard. Conrail's 51st Street piggyback yard (former EL) would be closed. NS and Conrail shops in Chicago will be consolidated.

Inbound Chicago connection trains would be classified at Elkhart and run through to connecting lines, just as Conrail does today. Return or outbound interchange traffic as well as most Chicago-proper cars will be classified and dispatched from the Blue Island hump yard of IHB or run through mixed to Elkhart for blocking. Southbound or westbound trains will move from IHB's Blue Island Yard through a new connection at Chicago Ridge onto NS's main line to Decatur.

At Osborn, Indiana, industries would be serviced from IHB's Gibson Yard, with NS industries to be worked by IHB crews through the new connection to be built at Tolleston. Conrail's industry support yards at Ashland Avenue, 110th Street, Hartsdale and Burns Harbor would be retained.

2. Detroit/Toledo

These two major common point terminals are discussed together because of Conrail's present use of its Stanley Yard in Toledo to classify Detroit traffic formerly blocked at its Livernois/Junction Yard in Detroit, a process that will be reversed after the consolidation, enabling NS's Homestead Yard operation to be moved into Stanley. Conrail's Junction Yard will become the primary yard in Detroit, with the other yards becoming industrial support satellites moving traffic from their respective areas into the primary yard for consolidation into trains. NS's Oakwood Yard would be reduced to set-out and pickup point for pre-blocked cars and to support for the Melvindale multi-level facility. TOFC/COFC traffic will be handled at Conrail's Junction facility which will be expanded to handle the consolidated traffic. NS and Conrail shops in Detroit will be consolidated, and the NS car and locomotive repair facilities at Toledo will be closed.

Conrail's North Yard will continue to originate and terminate road trains, making pickups at Oakwood and/or Conrail's Rouge Yard. Most Conrail-served industries in Detroit are in close proximity to North Yard and Sterling Yard. Conrail traffic presently moved to Stanley Yard for classification will be classified and dispatched out of Junction, moving through Toledo and bypassing Stanley, thereby alleviating congestion at Toledo and enabling consolidation of Homestead's operations into Stanley.

Canadian traffic would be pre-blocked to move through the Detroit River Tunnel. There appears at present to be sufficient volume of low-roof cars for at least two trains per day in each direction, assisting in further reduction of NS's current float traffic.

Conrail's multi-level facility at North Yard would continue to be operated separately from NS's Melvindale facility, with traffic generated from these operations to be consolidated at North Yard and Oakwood, respectively, for road train pickups.

3. St. Louis/East St. Louis

All Conrail trains except intermodal are and will continue to be classified at Avon Yard in Indianapolis for run-through to and from connections. Conrail's Rose Lake Yard in East St. Louis serves and will continue to serve primarily as a piggyback operation. It is proposed that the yard crew serving the Coapman area handle Conrail's industry switching north of Rose Lake. Access to the Alton/Federal/Wood River area would be via NW's Brooklyn District in lieu of Conrail's present route. The NS intermodal operation at Luther Yard would be consolidated with Conrail's much larger facility at Rose Lake, with piggyback trains to and from the West to be handled by puller or through train between Rose Lake and Luther. The major change in present St. Louis terminal traffic patterns from a Conrail/NS consolidation would develop from increased through business to and from the West via Kansas City.

4. Cleveland

Conrail's Collinwood Yard on the east side and its Rockport Yard on the west would be the focal points of the Cleveland terminal operation. Some of the classification work and block swapping by Conrail at both Collinwood and Rockport will be absorbed by Bellevue, mainly to relieve the pressure on Rockport and convert as much Cleveland terminal activity as is feasible to industrial support status. The NS shops at 55th Street and Campbell Road will be conveyed. The Conrail Collinwood locomotive shops will be closed.

5. Buffalo

NS's limited Buffalo terminal activities will be consolidated with Conrail's operation at Frontier Yard. NS shops will be conveyed. Except for adding NS traffic to

Conrail's, no change in Conrail's Buffalo service pattern is contemplated.

6. Pittsburgh

Conrail's Conway Yard will be the primary Pittsburgh facility, and Conrail's routes will be used into and out of the Pittsburgh area. NS's Eighth Mine District industries will be serviced by crews originating at Conrail's Mingo Yard. Arrangements will be made to interchange at Pittsburgh any future NS-originated grain trains destined to Baltimore which must be routed B&O, i.e., those formerly moving via Connellsville.

7. Cincinnati/Columbus

The classification work now performed at Buckeye Yard in Columbus will be absorbed in part by Sharonville in Cincinnati to make up Cincinnati-Southern run-throughs and also take over the classification work now done at Gest Street. It is contemplated that remaining Conrail classification work currently performed at Buckeye will be handled at Bellevue and such Conrail terminal operations as Detroit/Toledo, Avon, Elkhart and Conway, which are presently making blocks for points beyond Buckeye. NS's present intermodal operation at Gest Street will remain, but its other Cincinnati area activities and Ludlow, Kentucky, operations will be consolidated into and absorbed by Sharonville. NS and Conrail shops will also be consolidated.

8. Potomac Yard/Hagerstown

It is proposed to handle via Hagerstown that NS/Conrail traffic to and from points west and north of Harrisburg, Pennsylvania, which is now moving via Potomac Yard. If sufficient volume develops, this traffic would be routed from Southern's main line at Lynchburg via trackage rights over C&O to Glasgow, Virginia, thence NS's Shenandoah Valley line to Hagerstown for movement over Conrail to Harrisburg/Enola. For competitive service reasons, NS/Conrail traffic through Potomac Yard to northeast corridor points and other areas east of Harrisburg would continue to move through Potomac Yard.

ATTACHMENT V

Proposed NS/CR Abandonments after Divestiture

	Route Miles Abandoned			
Line	**OH**	**IN**	**IL**	**Total**
NS				
Cleveland-Rocky River	4			4
Lorain-Oak Point	8			8
Huron Branch	7			7
Shinrock Connection	2			2
Kokomo-Peru		14		14
Peru-Rochester		22		22
Plymouth-Dillon		16		16
Belfast-Michigan City		7		7
Delmont Jct.-Montpelier	47			47
Wakarusa-Dillon		30		30
Pine-South Bend		8		8
Lafayette-Rankin		34	19	53
Gibson City-Bloomington			33	33
Total NS	70	129	52	251
CR				
Danville-Urbana			29	29
Clermont-Logansport		72		72
Lebanon-Altamont		31		31
Union City-Red Key		22		22
St. Louis Terminal			9	9
Mingo Jct.-Bowerston	32			32
Cadiz & Hanna Branches	9			9
Total CR	41	125	38	204
NSCR Total	111	254	90	455

May 20, 1985

Lines Proposed for Sale or Transfer of Lease to Guilford and P&LE

Line	Route Miles						
	NY	PA	WV	OH	IN	IL	Total
Sale to Guilford							
NS Lines							
Buffalo-Cleveland	68.2	43.9		75.6			187.7
Douglas-East St. Louis				34.4	169.5	176.1	380.0
Kokomo-Indianapolis					55.9		55.9
Cloggville-Knob				2.3			2.3
CR Lines							
Crestline-Gary				111.7	146.3		258.0
Carrothers-Walbridge				55.4			55.4
Adams-Decatur					16.2		16.2
Total-To Guilford	68.2	43.9	-	279.4	387.9	176.1	955.5
Sale/Transfer Lease to P&LE							
NS Lines							
Connellsville-Pittsburgh Jct.		86.1	4.8	20.3			111.2
Clairton-Pierce		5.6					5.6
Mifflin-Longview		3.5					3.5
West End-West Belt Jct.		2.3					2.3
Pittsburgh Jct.-Yeomans				128.8			128.8
Cleveland Belt Line				5.4			5.4
Cleveland-Harmon				72.8			72.8
Harmon-Zanesville				70.5			70.5
Chagrin Falls Branch				8.2			8.2
Carrollton Branch				27.7			27.7
Minerva Branch				3.0			3.0
Massillon Branch				16.5			16.5
Canton Belt Line				3.7			3.7
Steubenville-Martins Ferry				21.0			21.0
Lorain & West Va. Ry.				1.5			1.5
Peabody Branch (Trinway Line)				6.4			6.4
Huron Branch				4.5			4.5
CR Lines							
Carnegie-Bridgeville		5.9					5.9
Total-To P&LE	-	103.4	4.8	390.3	-	-	498.5
Grand Total	68.2	147.3	4.8	669.7	387.9	176.1	1454.0

May 1, 1985

Proposed Guilford and P&LE Trackage Rights

		Route Miles				
Line		PA	OH	IN	IL	Total
Guilford Trackage Rights						
Cleveland-Crestline	CR		62.8			62.8
Berea-South Lorain	CR		17.5			17.5
Bucyrus-Carrothers	NS		13.7			13.7
Toledo	CR		1.8			1.8
Toledo	NS		5.8			5.8
Gary-South Chicago	CR			6.8	1.5	8.3
Kokomo	CR			0.3		0.3
Frankfort	NS			1.5		1.5
Ft. Wayne-Bluffton	NS			24.7		24.7
Total-Guilford			101.6	33.3	1.5	136.4
P&LE Trackage Rights						
Toledo-Yeomans	NS		50.9			50.9
Youngstown-Kent	CR		51.1			51.1
Mingo Jct.	CR		5.1			5.1
Pittsburgh Area	CR	11.8				11.8
Total-P&LE		11.8	107.1	-	-	118.9
Total-P&LE - G&I		11.8	208.7	33.3	1.5	255.3

May 1, 1985

ATTACHMENT VI

REQUIRED INVESTMENTS
(MILLIONS OF 1983 DOLLARS)

1. TRACK CONNECTIONS	
- THRU SERVICE	$ 8.1
- LOCAL SERVICE	2.6
2. LINE UPGRADING	
- PASSING TRACK EXTENSIONS	4.9
- TRAFFIC CONTROL SYSTEMS	8.5
- TIES & SURFACING	4.7
3. TERMINALS	
- SHARONVILLE	10.8
- INTERMODAL	4.7
- OTHER	1.5
4. OTHER	5.0
TOTAL	$50.8

ATTACHMENT VII

Estimated NS/CR Affected Positions* after Divestiture

Category		Total
Train	- CR	44
	- NW	75
Yard	- CR	114
	- NW	244
	- SOU	22
Other Transportation	- CR	104
	- NW	191
	- SOU	46
Mechanical	- CR	166
	- NW	231
	- SOU	45
Engineering	- CR	44
	- NW	157
Administration	- CR	8
	- NW	36
Sales and Other		292
		1,819 **

* 1983 employment levels.

** Positions created to handle diverted traffic are not reflected. New York Dock labor protection (up to 6 years pay) will be provided for adversely affected employees, and the annual attrition rate on NS and Conrail is more than triple the estimated affected positions.

May 20, 1985

AVAILABLE

ANTICOMPETITIVE IMPACTS

Senator **ANDREWS**. And let us hope that we are going to get that kind of an operating plan. But I think it is significant that no operating plan was looked at before the decision was made to go ahead with this sale. That is kind of putting the cart before the horse.

In the Sante Fe-Southern Pacific merger, the Justice Department felt that there would be anticompetitive impacts even where another road offered service. Why is that apparently not the case here?

Mr. **BURNLEY**. Senator, I do not want to get caught on semantical hooks, but I must confess I am a little bit surprised at the notion that there is some air of mystery about all this. The Justice Department spent over 6 months and looked at Norfolk Southern's proposal in infinite detail.

Additionally they are now looking at the proposed divestitures to Guilford and the P&LE. FRA has looked in detail at the proposal of Norfolk Southern. Norfolk Southern has appeared repeatedly before committees all over Capitol Hill.

We have on the public record a series of statements from Norfolk Southern in addition to the very tough covenants that are in the memorandum of intent about precisely how it proposes to operate the railroad. Briefly, they have said they intend to operate it as a division of the Norfolk Southern-Conrail system, just as they do the Southern today and the N&W.

Now, when you say operating plan, there are two possibilities in terms of how you look at a transaction like this. One is to look at it in broad brush form, as I have just suggested. The other is to look at it in terms of its impact on specific movements of goods and on specific communities and on specific routes, and again, that is what the Justice Department spent more than 6 months doing.

I do not think there ought to be any misunderstanding in the record about how thoroughly this whole matter has been reviewed, and we would certainly welcome further review.

Senator **ANDREWS**. We are glad that it has been thoroughly reviewed. But when my friend, Allyn Fagerholt, who has to ship his potatoes to Philadelphia, is concerned, and when I ask about a standardized ICC procedure and you say, "Yes, we have some of these studies, but Mr. Crane, who is charged with the responsibility of running the railroad, has not been a part of those studies and has not seen them," I doubt that you have really exposed them to the kind of comment and the kind of input that would make them complete and total.

In this hearing, our only challenge is to get the information on the record. Our colleagues, the other members of the subcommittee and our colleagues in the Senate, I think, want to have the most complete record we possibly can. Since we are talking about a standardized ICC procedure, we think it is perfectly proper to ask for that and get it in the record.

It certainly is a concern to me and, I am sure, to other members of this subcommittee that that kind of a study has not been out and been commented on by the people who run the railroads. It is a concern to us when we talk about the operating plan, a standard procedure when you have a merger, that you have to look at to safeguard the shippers like the North Dakota State Mill & Elevator, and again like Allyn Fagerholt, and like my colleague Senator Lautenberg's shippers, and we find out that in this case the procedure has not been followed.

You are now about to go out and find this operating plan. You kind of wonder whether you really put things together.

PROTECTION OF SHIPPERS

Let me ask one final question before I yield to my colleague, Senator Lautenberg. Are the same protections afforded shippers in the Northeast as are given those in the Southwest? I mentioned that Santa Fe-Southern Pacific merger.

Mr. BURNLEY. Senator, we think that when you lay those two studies side by side, you will find in each instance the Justice Department used a very stiff set of what are called economic screens. Let me just broaden the answer as follows, to pick up on your last point.

It was not the decision of the U.S. Department of Transportation or the Reagan administration not to use standard ICC methods of studying this. The U.S. Congress made that decision in 1981 when it passed NERSA, and it said on the face of NERSA for all to see that this transaction was going to be exempted from ICC scrutiny.

Now, one may second guess the Congress, I suppose, as to whether that was wise or not, but nonetheless that was Congress' decision, and we have not again tried to keep any of this secret from anybody.

I think you will find that the Justice Department review in both of those merger cases was very stiff, and that the same kind of analytical techniques were used on each. Obviously, the prescription as to what remedies Justice recommends in one versus the other are going to depend very much on the conditions of the particular merger.

Senator ANDREWS. Mr. Burnley, I appreciate that comment, but I doubt that very many people would put me in bed with the ICC. [Laughter.]

Mr. BURNLEY. That is a fair guess.

Senator ANDREWS. Now, I am not sitting up here trying to protect the ICC, and, in fact, we have a few problems with the ICC, but let me point out to you that some of the procedures the ICC has used over the years are pretty darn good procedures. They work.

And in the orderly progression of getting the facts on the record, it would seem to me that we can extract these techniques that the ICC has used over the years and use them for yardsticks. That is precisely what this hearing is doing today.

We try to get those yardsticks. We want the others at the table to comment on them. And you will in the record. But then let me also point out that I am well aware the ICC was left out of this picture deliberately by an act of Congress.

But I am also well aware, and you should be, too, that ultimately there will be a vote in Congress on whether or not this Conrail sale is going ahead, and I for one, and I am sure my colleagues share that feeling, want to have the best possible information we can have with comments from everybody so we are sure we have not overlooked some of the appropriate individuals to comment.

I find it rather appalling that this operating plan has not been put together, and that these studies that you have talked about have not been commented on by the people. There are some gaps that we intend to correct, and when we correct them, we will have the facts, and individual Senators will make the decision on whether or not we go ahead with this sale.

Senator Lautenberg.

ICC REVIEW

Senator LAUTENBERG. Thank you, Mr. Chairman.

I find your questions so illuminating and helpful that it kind of took care of almost everything, but we have a few questions that I would like to put to the panel.

Mr. Burnley, could you see any negatives coming from review by the ICC here?

Mr. BURNLEY. Just one, Senator, and I think it is a very substantial one. Let me just say this is the third hearing this week that I am aware of—we have so many hearings, I certainly do not have to explain to you—going on in both Houses right now. There may have been more, but this is the third hearing this week where Department witnesses have testified on the sale of Conrail.

So, we are, I think, giving the Congress full opportunity to examine us about this. The one major concern is that both the employees and the shippers, and most of all those of you who represent the States where Conrail operates, are entitled sooner or later to an answer to the large question about how Conrail shall be operated in the years to come.

Now, Secretary Dole did not get up one morning and decide that it would be entertaining or challenging to go sell Conrail. Again, in 1981, the Congress enacted NERSA and directed the Secretary to hire an investment advisor and to go to work on putting a plan together for Conrail's sale, and USRA was given the responsibility for oversight and making the profitability determinations.

Since 1981, first under Secretary Lewis and then under Secretary Dole, we have had a very lengthy, involved, elaborate process. We have consulted fully and repeatedly with Conrail's management, with Conrail's rail labor leadership, with Conrail's shippers, and with those of you in the Congress who represent the States or otherwise have an interest in this issue.

We have tried to continue that process right up until this day. And at some point again an individual who in North Dakota, for example, is worried about the future of his grain movements is entitled to some satisfaction on that, to know what the U.S. Government in its wisdom will ultimately do and how it will impact on him.

Similarly, someone who has given up 12 percent per year as compared to employees on other railroads and who have seen many of their fellow employees lose their jobs ought to be given an answer as well.

The bottom line is, if the ICC procedure is going to further extend that, Senator, then I would have real concerns about that.

Senator LAUTENBERG. If they are going to extend——

Mr. BURNLEY. If it is going to greatly extend this very lengthy process that I have just outlined, I would wonder whether the Congress wished to revisit its decision in 1981 that that was not the wise way to go.

Senator LAUTENBERG. It is a pretty important decision. It is one getting an awful lot of attention. Considerable doubts are being raised about its long-term viability, and I think that wherever we can solicit expert review, and especially since there—is there precedent for avoiding an ICC review ever before in a situation such as this?

Mr. BURNLEY. Senator, I am unaware of such a precedent, but I must go back to the legislative record. I think Congress, in fact, was also aware of the fact that this was unusual and unique in 1981 when it made its decision.

Senator LAUTENBERG. But that decision was then, and conditions have certainly changed—perhaps no transaction of this type has ever come up before. But certainly it has never been—there is hardly anything that has ever been reviewed this closely by so many different parties.

So, there is no precedent. We are concerned about some unanswered questions, and therefore, I cannot see any reason why the ICC should be excluded from this process.

Mr. Crane, do you see any reason?

Mr. CRANE. I know of no reason, Senator. Let me say again—I reiterate, Mr. Burnley says he has consulted with Conrail's management. He must have talked to other people on the railroad. I do not think I have had a conversation with him.

Senator LAUTENBERG. Who would you have appointed, Mr. Crane, to talk to him?

Mr. CRANE. I beg your pardon?

Senator LAUTENBERG. Who did you appoint to talk to——

Mr. CRANE. I do not know. I am not aware of that.

Mr. BURNLEY. Just for starters, Senator, Mr. Roy Opitz has been for some 2 years senior vice president of Conrail, in weekly contact by phone and messages with the Department and Goldman Sachs, working on this. We have had extensive discussions with the members of Conrail's board. We have had extensive discussions for 2 years off and on with Conrail management.

So whether or not Mr. Crane and I have chatted personally is not the issue. There are many avenues of communication, and we try to use them.

Senator LAUTENBERG. You are the CEO?

Mr. CRANE. I am. Yes; that is right.

Senator LAUTENBERG. So I guess it is an unusual procedure not to have the CEO included?

Mr. BURNLEY. Senator, he has been included. I want to be very clear about that. He has been included.

Senator LAUTENBERG. I do not know how long this debate ought to go on, Mr. Chairman, in terms of who is in and who is out, but the fact of the matter is that no matter what we conclude about the direction of the sale, if the sale goes forward, no one can deny Mr. Crane's expert management in a very delicate, very difficult situation over several years.

And even though I am not persuaded that a public offering, which is Mr. Crane's recommendation, is the way to go, his advice and his input is essential in terms of how we do this.

LONG-TERM VIABILITY

Mr. Burnley, as I see the chart, what the bottom of the chart says, in addition to the incline of the plane, it says we had better get out of this business pretty quick, because otherwise there is not going to be much left.

Fortunately, we are able to conduct this hearing in private. The buyers out there, they do not know what we have planned for this hot potato here.

Senator ANDREWS. They are good potatoes. They have to get those reds in because of the quality. Just like New Jersey buys our buses.

Senator LAUTENBERG. We buy your buses, and we eat your potatoes, Mr. Chairman. Is there anything else that I can do? [Laughter.]

Senator ANDREWS. Our pasta products, too.

Senator LAUTENBERG. I did not know that Hersheyola was the biggest producer of pasta.

Senator ANDREWS. You bet. You buy San Gorgio or Skinner or the rest, you are buying a North Dakota product. We just want to get it to you economically, because it is the staff of life.

Senator LAUTENBERG. We would like that, and we would like to be able, after digesting the pasta, to use it in turning out good quality product and moving it rapidly and so forth.

So that is the reason for this prolonged discussion, but again, it looks a bit like a hot potato. It looks like it is almost hot merchandise, so we had better dump it while we can get out. I am surprised that the buyers are not more sophisticated than this.

I guess they just do not know? Put $1.2 billion up there and they have no idea what is coming. So, good, let us get out of it.

In a serious vein, and you get a chance to get out of the fire, Mr. Burnley, very shortly, if the projections are as grim as they are. Then why, Mr. Crane, in a public offering would there be so many eager buyers out there and so naive and not really concerned? They are infatuated with the Crane management record and saying, well, it is going to go on forever, we may as well get on this train, the Crane train.

Mr. CRANE. Senator, I do not share the opinion it is a piece of damaged merchandise that you had better unload right away or you will get in trouble. I suggest to you that if that were so, the effort that the Norfolk Southern is mounting in order to persuade the Congress that their way should be supported is really unprecedented in my judgment.

Senator LAUTENBERG. Maybe they just do not know how bad this thing is.

Mr. CRANE. Let me say I have no doubt that they know what an excellent plum they are getting. They have been crawling over my railroad for the last year and a half, and they know every facet of the railroad, and they know what a bargain it is.

Senator LAUTENBERG. Mr. Burnley?

TIMELINESS OF CONRAIL SALE

Mr. BURNLEY. Senator, let me make two points. First, as Mr. Crane said, his railroad has been crawled all over, and it is true Norfolk Southern has taken a close look. We have hardly had a fire sale. This process again has been under way since the Congress instructed the Secretary to go forth in 1981.

And I cannot imagine any particular public interest in it dragging out another 3 or 4 years. At some point there is a need to bring it to a conclusion. It is clearly the case that Norfolk Southern achieved some things that it believes will strengthen its company in the long run, first and foremost, access to New York City, access to Philadelphia, and, for that matter, an opportunity in the Baltimore port that it does not now have.

And it is clearly the case, as Mr. Berger commented earlier, that we have had movement in this country for the last 20 years toward railroad mergers to achieve those efficiencies. So I do not think there is any secret about why they are interested.

I might just mention that in terms of why Norfolk Southern is so busy on the Hill in mounting the effort, it may have something to do with the counter efforts being mounted by CSX and by Mr. Crane.

Senator LAUTENBERG. OK, we will let the silence provide the curious an answer. The fact is that it suggests that NS will, in order to continue the profitable opportunity that is presented, reduce staff. One of the things that I am concerned about is what happens to things that might be redundant, whether it is people or facilities, port direction. Those are the primary concerns, as I think you know, for me from New Jersey.

Mr. Crane, your projections as presented, your public offering proposal, how do they compare to USRA's figures on your net income traffic flow projections?

Mr. CRANE. Well, I do not think our projections are too far away from USRA's projections, Senator, and I guess—let me say when I look at USRA's projections, the only place where I see any financing is the financing that the railroad normally requires in order to buy the equipment that they buy. Isn't that correct, Mr. Berger, in your analysis here?

Senator LAUTENBERG. How do you respond?

Mr. CRANE. Let me say I might point out to you that the level of that external borrowing is no greater than it was at the time that Conrail was under the Federal Government and received substantial sums from them.

They are normally things that we buy and they borrow on, because every railroad—Norfolk Southern does not pay cash for its cars and locomotives. It borrows in order to buy them.

CONRAIL BOARD OF DIRECTORS MEETING

Senator LAUTENBERG. The chairman has requested my yielding for a minute, and knowing how things work, I never deny my chairman an opportunity.

Senator ANDREWS. I just want to clean up a few loose ends.

Mr. Burnley, when is the next Conrail board of directors meeting?

Mr. BURNLEY. I frankly do not know the answer to that. Some time in mid-April, but I cannot give you the precise date.

Senator ANDREWS. Mr. Crane?

Mr. CRANE. Did you ask me, Mr. Chairman? The next Conrail board of directors meeting is on Wednesday, April 17.

Senator ANDREWS. Will there be any new information regarding Conrail operations for the board members at that meeting that you could share with the committee today?

Mr. CRANE. Well, let me say it so happens, Mr. Chairman, that that is the organizational meeting of the company each year. Let me say our directors are elected at yearly intervals. Six of them are nominated and elected by the U.S. Railway Association. Five of them are now nominated and elected by the Department of Transportation.

That board then sitting as a board of 11 members will elect a chairman and a chief executive officer and a chief operating officer and certain other senior officers of the company. All of that will take place at that April 17 board meeting, as it has in each of the previous years.

Senator ANDREWS. That I suspected.

Mr. Burnley and Mr. Berger, given the operations and financial record of the present Conrail team, does the Department foresee any changes that would affect Conrail before a sales transaction is completed?

Mr. BURNLEY. Changes of what sort, Senator?

Senator ANDREWS. Changes in the board.

Mr. BURNLEY. Oh. The answer to that is that between now and April 17, the Secretary will have to make her appointments, and the USRA board will have to make its appointments, and she still has that matter under consideration and review, and I frankly do not know how she is going to come out on it, so we will just have to see when she makes her decision.

Senator ANDREWS. Given the study that Mr. Berger just mentioned, that things are going well, it could well be a freestanding operation, given all of the other laudatory comments about how well it is being run, are you contemplating changing it?

Do you want to—in effect, are you going to slide in through the back door and gut the good operation so that it will have to be sold?

Mr. BURNLEY. Senator, far from it. We are very proud of Conrail's good operations, and we think that the Congress gets the lion's share of the credit for the ability Conrail management has had to become competitive.

We have no intention of sliding in through any back doors.

I might just point out a most unusual situation that leads to what we have here, where management can openly use all the company's resources to oppose the stockholders' recommendation on a sale. The Secretary only elects 5 of 13 directors, and I think that has a little something to do with the current situation.

So, regardless of the Secretary's decision on that, we do not have the ability to affect the majority of the board members.

USRA APPOINTMENTS

Senator ANDREWS. Well, Mr. Berger, do you have any plans to change the management team in Conrail?

Mr. BERGER. My personal plans would be no. Let me just suggest, I have talked to the Deputy Secretary about this over some period of time, and I have suggested that I thought it would be in the interest of the company as well as of the process now taking place here on the Hill to maintain stability in the company.

The approach of USRA, both the previous board and this board, has not been to try to direct the voting habits of its members of the board of directors. We have chosen people, some on the recommendations of the administration, some who have sat for some time, on the basis of what we believe is their broad general competence in managing and sitting on the board of directors of what is a major corporation.

I keep saying that because the Government owns the stock but it is functioning as a corporation. My predilection clearly, Mr. Chairman, would be to see stability during this process and until the process is completed, but obviously I cannot speak for the Secretary on her appointments.

AMTRAK ELIMINATION IMPACT

Senator ANDREWS. On another subject, because we also examine their budget, Mr. Burnley, the subcommittee heard testimony yesterday from the FAA Administrator—and you speak for the Office of the Secretary—Engen regarding the aviation impact in the Northeast corridor of the elimination of Amtrak service.

He indicated that FAA does not currently have a contingency plan that can absorb 17,500 additional daily passengers in the air space system around New York. He also acknowledged that airport investments to accommodate such an increase in traffic would be necessary and highly expensive, as would airway investments.

Why did the department not take these factors into consideration in FAA budget deliberations?

Mr. BURNLEY. Senator, there are two answers to that. First, it is by no means clear and plainly evident from our perspective that passenger rail service would no longer be available if the Congress eliminated Amtrak subsidies as to the Northeast corridor. As you know, that is one of the two runs in this country where at least Amtrak today more often than not is recovering its operating costs, and perhaps doing a little better than that sometimes.

As I think Admiral Engen testified yesterday—and he told me about your questions on this after the hearing was over—there are by his count some 5 million empty seats on airplanes already in service between Washington and New York, and since only 10 percent of all of the intercity passenger traffic today between those two cities moves by rail, it would seem that we would not have too much problem being able to absorb those folks.

Senator ANDREWS. In his testimony, he mentioned those 5 million empty seats per year. We were talking about 17,500 passengers per day, and you know, if you can shoehorn those passengers into those empty seats, the precise number of passengers at the precise proper time, to get a 100-percent load factor, you will have done better than any management team on any airline in the history of any nation.

So filling those empty seats borders on smoke and mirrors and Alice's rabbit, but the key thing he said after he mentioned the seats was that they not only had problems with airport facility size, they also had problems with the radar and the other setup in the New York area that would be seriously impacted by additional flights.

Now, they are requesting $31 million of us just to buy the equipment to keep that facility in New York on track given a normal passenger increase. And he testified to us that that would not be adequate if you dumped 17,500 daily passengers onto the system.

My question goes back to that old one, Mr. Burnley. Why did you not take these factors into consideration?

Mr. BURNLEY. Well, Senator, we did take them into account, and we also took into account the fact that we have a struggling intercity bus industry, and I am sure they have been to see you as well as they have us, to complain bitterly about the fact that the U.S. Government is making it very difficult for them to stay in business, because every time they drop the bus rate between New York and Boston, Amtrak drops the fare, and the taxpayers make up the difference, and they have some difficulty understanding why we let that go on.

So, it is not just the 5 million empty seats. They are already there. But in addition you have intercity bus transportation. You have an interstate highway system. And again we are talking, unfortunately—because I share the very strong romantic interest and the nostalgic interest that many people have about passenger rail service—but unfortunately less than 1 percent of all the intercity travel in this country today is by passenger rail.

It is not because we do not have enough empty seats on the trains. In the Northeast corridor, trains carry only 10 percent of intercity travel. So it is really not a major problem.

Senator ANDREWS. I am not worrying about the romance of riding on rails. The concern that this committee has to have is what improvements are we going to be forced to make, at high cost, to handle those passengers that go some other way.

If the administration believes that in time Amtrak beneficiaries will materialize to fund viable system portions, why does the Department's budget not allow fiscal year 1986 transitional funding as it does for Dulles and National airports, which are proposed for transfer to a local authority?

Mr. BURNLEY. Senator, in terms of transitional funding, I think you have to know first how you might propose to turn Amtrak over to either a regional authority or to have the States and local agencies running it, and frankly, although the Secretary has asked the Federal Railroad Administrator to talk to the States in the Northeast corridor, you certainly have got, at least at this point, an open question before the Congress about whether the subsidy is going to be eliminated.

I think once it becomes clear that Congress is moving in that direction we will see some rapid movement to pick up the Northeast corridor, and then we will be able to talk further with the Congress about how that would be done. As is true with National and Dulles, I am sure we would then have a plan that you would be very interested in as to how that would be transferred.

ESSENTIAL AIR SERVICE SUBSIDIES

Senator ANDREWS. Mr. Burnley, finally, on essential air service subsidies, Congress provided $52 million for essential air service subsidies. What actual obligations are estimated for fiscal year 1985?

Mr. BURNLEY. Senator, my understanding, if I recall correctly, is that the actual obligations for current subsidies will be in the neighborhood of $38 million.

Senator ANDREWS. In the event the program is continued, what is the estimated budget authority necessary in fiscal year 1986?

Mr. BURNLEY. I will have to supply that for the record. I do not have that number off the top of my head.

[The information follows:]

Our present estimate is that $38 to $40 million would be required in fiscal year 1986.

Senator ANDREWS. How many communities that received the subsidy under the EAS last year obtained subsidy-free status?

Mr. BURNLEY. I cannot give you that number for last year. I can say that we have had, since 1978, when the Congress began deregulating the airline industry, very good success, and if memory serves me correctly, something close to half of the communities that were originally eligible have been able to get service without subsidy.

And as I think you know, we have had quite a few communities where the quality of the air service has been maintained without subsidy, but they may get smaller airplanes. They may be served with turboprops instead of jets. We have had a good record with that.

[The prior year information follows:]

Eight points were removed from the subsidy list between January 1984 and March 1985. These are: Chico, CA, Elko, NV, North Bend, OR, Prescott, AZ, Roswell, NM, Stillwater, OK, Waycross, GA, and Wenatchee, WA. Waycross is not presently receiving air service.

Senator ANDREWS. How many communities would lose service without the EAS?

Mr. BURNLEY. I think, Senator, that is probably very speculative. We do not have a number, because you really get to the question of whether there are operators who will come in with what may be smaller equipment, with commuter-class aircraft versus the 60-seat plus aircraft to pick up that service if the EAS program is terminated.

So, I think anything we give you on that would be highly speculative, because again we have a better experience than I think we anticipated or the Congress anticipated with communities getting service without subsidy.

Senator ANDREWS. Well, we have three in North Dakota in that category. We have Williston, Devil's Lake, and Jamestown.

How do you square cutting that program out when Secretary Dole at this hearing last year, responding to a question about the losers since deregulation, pointed out this program's value when she said no community that received certificated service at the time of the Airline Deregulation Act has lost all service?

As you know, the Essential Air Service Program, which will be transferring to the department at CAB sunset, provides that all communities receive some service.

Then she went on to say, the Essential Air Service Program provides a 10-year federally supported transition period.

Now, with the cutting out of this program and the blindsiding of three of our communities in North Dakota and, I suspect, others in other States, does that mean that the Secretary's remarks last year have been declared nonoperational?

Mr. BURNLEY. They have not been declared nonoperational, Senator, but we were in a different budget cycle last year, and I think we would all agree that the challenges that we face both in the executive branch and the Congress have required a second look at a lot of programs.

AIR SERVICE COVERAGE

Senator ANDREWS. Has the Department then thought of the possibility of going back to some type of requirement on the airlines and say, when you serve a region, that you serve all the facilities in the region that generate adequate passengers, which they did before we went with deregulation?

Mr. BURNLEY. Senator, we have not looked into that with any depth or detail, and the reason, very simply, is that therein lies a route back to reregulation, because once you tell them they have to do it, then they have a right to be guaranteed revenue sufficiency, and we end up right back where we were with a highly regulated industry pre-1978.

Senator ANDREWS. Some of these towns were being served without any subsidy, so what we are talking about is not reregulation, but a national transportation system which really is mandated in the Constitution. When you back away from a national system and when you declare inoperable what the Secretary says one year, barely a year later, and you tell me now that you have not looked into a way of getting the major airlines to serve some of these airports they used to serve before deregulation, it makes me think it may be necessary to consider service requirements. You know, telephone service works that way. Power service works that way. You serve all the needs in an area.

And I would hope, Mr. Burnley, that you and the Department would look at it.

I have some other questions that I will submit for the record.

Senator Lautenberg?

Senator LAUTENBERG. Thanks again, Mr. Chairman.

Possession is nine-tenths of the mike here.

Mr. Burnley——

PREPARED STATEMENT

Senator ANDREWS. A prepared statement from Mr. Burnley will be made part of the record.

[The statement follows:]

STATEMENT OF JIM BURNLEY

Mr. Chairman and members of the Committee, we are pleased to have the opportunity to appear before your Committee to discuss the fiscal year 1986 budget request for the Office of the Secretary.

For fiscal year 1986, we are requesting appropriations of $56.2 million for the Office of the Secretary. This includes full-year funding of functions transferred from the Civil Aeronautics Board (CAB), except for Payments to Air Carriers, for which we are requesting no FY 1986 appropriation. For FY 1985, CAB functions were funded in the Department for 3/4 of the year. The increased cost for full-year funding of continuing CAB functions is more than offset by management savings, elimination of staff associated with the Essential Air Services program, and the proposed governmentwide 5% pay reduction. The specific appropriation requests for the Office of the Secretary are as follows:

SALARIES AND EXPENSES

For the Salaries and Expenses appropriation, which provides for the overall management and direction of the programs of the Department, we are requesting $50.7 million, a decrease of $180 thousand from fiscal year 1985. Included in the fiscal year 1986 program is $4 million for continuing contract support of the Minority Business Resource Center (MBRC) at the 1985 appropriation level, of which $3.5 million is to be provided by new budget authority and $0.5 million from anticipated carryover of prior-year recoveries.

On January 1, 1985, the Department of Transportation acquired 309 positions through transfer of functions from the former Civil Aeronautics Board, of which 259 are in the Office of the

Secretary. The transition was effected smoothly and without interruption in critical CAB operations. Our FY 1986 request for Salaries and Expenses proposes to continue funding the transferred positions, except for those associated with the Essential Air Services program which is proposed to be terminated at the end of the current year.

Last year, the Secretary established the Office of Commercial Space Transportation within the Office of the Secretary to encourage and promote commercial expendable launch vehicle activities by private sector enterprises. For this office, we are requesting 11 positions through FY 1986. In FY 1986, the Space Office will also continue to receive contractual research and planning support funded by the Transportation Planning, Research, and Development appropriation.

The remaining portions of the Salaries and Expenses request maintain their approximate fiscal year 1985 appropriation levels as adjusted for management savings and for the proposed governmentwide pay reduction of 5%. Total staffing in this appropriation is proposed at 713 positions in 1986, a reduction of 67 from the 1985 level, including 54 associated with elimination of the Essential Air Services function and 13 as the result of management savings.

PAYMENTS TO AIR CARRIERS

This appropriation has provided funding for subsidy payments to air carriers under the Essential Air Service program. That program was created by Congress as a ten-year program, expiring in 1988, to help communities adjust to airline deregulation. We are proposing legislation to move the termination date up by three years. Airlines and consumers have adjusted to deregulation, as evidenced by the airline industry's 1984 profits, which were the highest since deregulation. Many of the affected communities have been served by expanded new commuter-class air service without reliance on the EAS program, and nearly half of the cities that still receive subsidy under the program are located within 100 miles of a major hub airport. We therefore believe that this program has served its purpose, and we are requesting no appropriation in FY 1986.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

We are requesting $5.5 million for the Transportation Planning, Research and Development (TPR&D) appropriation, a decrease of $177 thousand from FY 1985. This appropriation provides for contract studies and research done in support of analysis, planning, and policy development in the Office of the Secretary and for university research.

Of the total request, $2.5 million will fund the TPR&D staff and $1.3 million will continue current support levels for University Research, the Commercial Space Office, the Science Advisor, and special projects. The remaining $1.7 million will be allocated for projects in the Office of the Assistant Secretary for Policy and International Affairs that are concerned with improving transportation safety, monitoring the progress of regulatory reform, supporting the development and implementation of international transportation policy, and studying such domestic transportation policy issues as airport financing trends, analysis of the motor carrier and maritime industry structures, and preparation for the 1987 census of transportation.

WORKING CAPITAL FUND

No separate appropriation is required for the Working Capital Fund, but a limitation of $66 million is proposed, a slight increase over the FY 1985 level to accommodate full-year support of transferred CAB functions. The Working Capital Fund provides for expenses necessary for the maintenance and operation of common administrative services in the Department. Staffing financed by the Working Capital Fund is being reduced by 28 positions from the 1985 level, including 25 through management efficiencies and 3 associated with termination of the Essential Air Services program.

This concludes my prepared statement, Mr. Chairman; we would be glad now to respond to the Committee's questions.

ADDENDUM TO MR. BURNLEY'S STATEMENT REGARDING CONRAIL SALE

ANTITRUST IMMUNITY

A threshold question that must be confronted as Congress considers whether to approve the merger between Conrail and the Norfolk Southern, proposed by the Department of Transportation, is whether that merger should be granted legislative antitrust immunity. Inevitably, this question implicates the wisdom and propriety of DOT's proposal in the first instance and the adequacy of the analysis conducted by the Department of Justice, at DOT's direction, approving the merger (with some divestiture) as a predicate for the extraordinary immunity request. All three questions suffer from a common problem: the public record does not contain sufficient information to guide our judgments, nor (because of the speed urged upon Congress by DOT to conduct its deliberations) will we be likely to gain sufficient information.

To date, there has been no public disclosure of the facts and circumstances which underlie the proposed transaction, there have been no public hearings allowing interested parties to participate fully and meaningfully, and there has been no thorough analysis by an independent regulatory agency based on usual principles of antitrust laws and subject to ordinary administrative and judicial review procedures. DOT urges Congress to reach a decision concerning the future of Conrail quickly, but without all the safeguards traditionally employed. Such a process does not serve the public interest.

DOT has recommended that Conrail be sold to the Norfolk Southern to meet the legislative directive of the Northeast Rail Service Act of 1981 that Conrail be returned to private sector ownership. At the outset, DOT recognized the obvious anticompetitive impact of combining two rail giants, and sought the assistance of the Department of Justice to "review" the contemplated merger. Following what can only be described as a clandestine process (with input only from some, selected to provide only certain information), and guided solely by DOT, the Department of Justice confirmed the obvious -- that the proposed merger would have a "significant adverse effect" on competition -- but stated that this impact could be "ameliorated." Justice suggested that the newly created mega-rail system could solve its anticompetitive problems by divesting certain Conrail and/or Norfolk Southern rail assets, provided that the divestiture satisfied three conditions:

> First, the acquirer (or acquirers) must demonstrate to the Attorney General's satisfaction that it possesses the managerial, operational and financial capability necessary to compete effectively, and to remain a viable entity providing long-term rail service along the designated corridor.
>
> Second, the divestiture should provide the acquirer direct, independent connections in the Buffalo, Chicago, Toledo and East St. Louis gateways to one or more railroads other than the merged railroad or CSX Corporation or any railroads owned or controlled by them. The Department asserted that "this condition is essential to the competitive viability of an alternative rail line because traffic to and from the affected markets moves not only on Conrail and Norfolk Southern but also, to a significant extent, off those lines to or from connections with other railroads at" those gateways.
>
> Third, following divestiture, "in order

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> to provide shippers with effective competitive access to the track and facilities of the acquirer" in each of certain designated counties in the east-west corridor, "the merged Norfolk Southern/Conrail entity must switch cars between its tracks and facilities and the tracks and facilities of any shipper served by Norfolk Southern, Conrail or [the combined entity] on customary terms and conditions whenever switching is practicable and necessary."

Justice's report apparently satisfied DOT. Armed only with the analysis and suggestions of the Department of Justice, DOT has stated its intention to seek Congressional approval, including antitrust immunity, for the transaction, with the divestitures found essential by the Department of Justice. From all outward signs, DOT apparently feels that Congressional review should take place at breakneck speed, rely entirely on the DOT analysis, and deny significant opportunity for meaningful independent review of the implications of DOT's proposal.

In addition to the desire for this unprecedented procedure, DOT's proposal contains an extraordinarily unusual substantive feature -- complete antitrust immunity. Despite Justice's suggestion that the proposed merger, with divestiture, will cure any competitive problems, DOT simultaneously seeks to forever insulate the transaction from the public scrutiny typically afforded by administrative review under the merger procedures of the Interstate Commerce Commission (and judicial review of those administrative procedures) or independent judicial review under the Sherman and Clayton Acts.

It is indeed telling that DOT seeks such immunity because to do so irrevocably insulates its proposal from subsequent antitrust review and shields Justice's analysis, upon which DOT asks Congress to rely, from the ordinary public scrutiny to which a merger would otherwise be subject. The immunity will shelter an opinion by Justice which could be faulty, flawed, incomplete or goal-directed. In view of the secrecy with which it was conducted, it could hardly fail to be otherwise. On this record, Congress (and the public) will never know. Absent prior full public disclosure of the facts and circumstances which underlie the proposed transaction, followed by a complete and searching hearing at which all affected parties are permitted to explore the impact of the transaction on the public interest, the transaction should not be allowed to go forward. In any event, it should not be granted legislative antitrust immunity based only on the unexamined weight accorded the views of the Department of Justice. Legislative antitrust immunity is a rarity; without a prior public hearing, it is unprecedented. It is particularly improper in a transaction of the size, complexity and public significance of the one now proposed. Moreover, there is a fundamental anomoly in DOT's advocacy of immunity. On the one hand, DOT says that all of the Justice Department's concerns will be met if the divestitures it recommends will be carried out. If this is so, no antitrust immunity is needed, but DOT seeks it nonetheless. This apparent contradiction highlights the need for careful scrutiny of the transaction.

Two alternatives exist.

First, Congress can deny immunity to the transaction. The transaction then will succeed or fail under the scrutiny of the antitrust laws. Were the proposed merger simply one between two industrial giants other than railroads, the Hart-Scott-Rodino procedures would govern the transaction. In that circumstance, the merging entities would be required to make substantial pre-merger disclosures to the Department of Justice. The standardized and extensive information demanded by that process permits advance Department of Justice review and a decision whether or not to challenge the proposed combination.

But even then, private parties nonetheless retain the right to challenge judicially the contemplated merger without regard to the expressed views of the Department of Justice.

Private parties may also seek remedies under the Clayton Act. Thus, while the Department of Justice determines whether to commence a public challenge to the transaction, the rights of private parties are preserved and their important role in antitrust enforcement is protected.

The second alternative is for Congress to establish an overarching process that will allow it to decide on a full record whether to grant the extraordinary antitrust relief that DOT and Norfolk Southern seek. A regulatory framework exists specifically to evaluate mergers between railroads, and those unique procedures also recognize and preserve private parties' rights to address in a public hearing the competitive import of a proposed merger. In general, authority to evaluate mergers between railroads is exclusively granted to the ICC. If ICC approval is granted, subject to judicial review, the transaction is exempt from the antitrust laws otherwise applicable to such mergers. Of great significance, however, is the price for antitrust immunity. There is extensive ICC consideration of the merger, including a specific statutory directive that the ICC evaluate whether the transaction is in the public interest and whether it would have an adverse effect on competition. To ensure the consideration of the views of all parties potentially affected by the merger, the Interstate Commerce Act and ICC regulations establish detailed public notice procedures, and require the public filing of information regarding existing and proposed operations, detailed financial data, and marketing information and plans, and mandate a public evidentiary hearing, with opportunity for cross-examination. Reflecting the importance it attached to the careful completion of this process, Congress, in 1976, accorded the ICC 15 months to conduct it, calling that time frame "expedited."

The ICC process thus ensures both the ICC and all affected parties an opportunity to evaluate and scrutinize the proposed combination. While the Departments of Transportation and Justice are directed to file comments with the ICC, their views are not conclusive, but are merely considered by the ICC along with those of other parties. The extent and nature of information available to the regulatory and judicial bodies in the ordinary course to determine the propriety of a merger or immunity can be contrasted sharply with the information available regarding DOT's proposal.

The general judicial review process and the ICC procedures just described both effectively protect the rights of all parties potentially affected by a merger and provide a fair and complete mechanism to safeguard the public interest in promoting and preserving competition and to guarantee that the decision made is an informed one. As such, adherence to these administrative or judicial notice and hearing procedures satisfies the principles of due process which traditionally underlie our basic form of government. In the case of the ICC review, the process serves as an adequate predicate for the legislative antitrust immunity which thereafter obtains. To grant legislative antitrust immunity without the opportunity to fully examine the impact of the proposed transaction precludes effective evaluation of its evident anticompetitive effect and puts at risk the public interest.

In order to permit full public consideration of the far-reaching effects of this proposed merger, protection of the public interest demands that a process be established to allow all affected parties to test through public hearings the precise contours of the transaction, the adequacy of the divestitures suggested, and the impact on the nation's economy, specifically considering the effect on shippers, consumers, other rail carriers, and rail employees. The varying interests to be accommodated are simply too important and too diverse to commit to the unreviewable and cursory conclusions of the Department of

Justice, which neither sought nor afforded the opportunity for public comment.

Once before, in a strikingly similar situation, the Congress turned to the United States Railway Association, an entity which now enjoys considerable knowledge and experience in the solution of the complex and unique issues affecting rail service in the Northeast and Midwest. Through both the initial public planning process which preceded the creation of Conrail, and its subsequent careful monitoring of Conrail's progress, USRA has acquired an expertise which cannot and need not be duplicated. The extensive public hearings which accompanied the development of the Conrail system provided precisely the sort of process which both in perception, appearance and actual opportunity erected a procedure for full public consideration of the views of all parties affected by Conrail's creation.

As part of its efforts, USRA sought and considered the views of the Departments of Justice and Transportation, the ICC, and informed members of the public. It acted as a fair arbiter, subject to Congressional review, of the competing interests of private parties and the disparate views of public agencies. USRA's procedures preserve, both in perception and actuality, the obvious private and public interests which will be substantially affected by the proposed transaction and which will require skillful, informal balancing. The financial viability of Conrail today amply demonstrates USRA's prior success and provides a firm basis to utilize now its substantial experience.

Some may suggest that the internal and largely secret Department of Justice evaluation of the competitive aspects of the contemplated merger provides an adequate substitute for administrative or judicial review, or full consideration by USRA. To this it must be said that the Department of Justice is but a single government agency and lacks the significant resources and experience necessary to analyze fully or fairly the unique transaction here contemplated, particularly given the context within which Justice's analysis was undertaken.

In no circumstances, however, should Justice's evaluation be conclusive or unreviewable. While the Department of Justice serves an important role in antitrust enforcement, both private parties and the courts occupy equally significant positions. In no other case in history has a determination by the Department of Justice of the type made here not to challenge a proposed merger ever limited a private party's right to obtain judicial consideration of the proposed combination. Similarly, an agreement between the Department of Justice and a private party defendant to settle an antitrust action by consent decree is subject to judicial review under the Tunney Act, which requires public notice and judicial consideration of the public interest.

The existing legislative framework recognizes that the national policies promoted by the antitrust laws are too important to be enforced by the Department of Justice alone, without normal checks and balances on the exercise of its discretion and judgment. The public interest requires that a transaction of this importance be open to administrative review or private enforcement in the courts. To depart from these Congressional policies in these circumstances would diminish public confidence in the wisdom of the proposed transaction, in antitrust enforcement procedures, and in Congress itself by denying any semblance of public scrutiny to the process.

The Department of Justice report to DOT on the competitive aspects of the Conrail/Norfolk Southern merger minimizes, but nonetheless demonstrates, the complexity and scope of the proposed transaction. To grant legislative antitrust immunity to this merger so radically departs from existing law and precedent that it must be rejected. But if authorized, immunity should be granted only after full and complete public hearings with participation by affected private parties.

Since its inception, Conrail has been a unique competitive force in the rail industry. For nearly 100 years, railroading has been steeped in historic practices -- even when those practices became counterproductive, anticompetitive, and a major cause of many railroads' financial collapse. As part of its effort to become financially self-sustaining, and with the tools granted it by the Staggers Rail Act of 1980, Conrail has taken a leading role among those who would move the rail industry into the deregulated era.

Conrail recognizes that the cornerstone of deregulation is competition and, as reflected in our nation's antitrust laws, independent pricing is the absolute prerequisite of competition. But until 1980, independent pricing was essentially unknown in the rail industry, which had for many years set its rates collectively and high enough to protect inefficient carriers and inefficient routes. By working through cartel-like groups called rate bureaus, railroads set all of their rates -- including their single-line rates -- collectively. Moreover, rate bureaus were used to enforce the "equalized joint rate" doctrine by which all rail rates between two given points (regardless of their cost or circuity) were priced the same. Conrail was an early and persistent supporter of legislation that would overturn this anticompetitive scheme, and in 1980 Congress recognized rate bureaus and equalized rates as principal causes of the financial plight of the railroads. Accordingly, the Staggers Act severely restricted the ability of railroads to set their rates collectively, and eased the rules for canceling and modifying joint rates.

In 1981, Conrail withdrew from the rate bureaus completely. It is still the only major railroad in the country to have done so. This action effectively ended most cartelized ratemaking, since the absence of Conrail from the collective process required the other railroads to compete with Conrail on the basis of price.

At the same time, Conrail began its long (and ongoing) struggle to win the right to price its part of multi-carrier services independently. This action initially was opposed by virtually every other railroad. But Conrail was able to demonstrate that by pricing each route independently, in the light of its costs and its relative efficiency, traffic could be consolidated on the best routes, lowering the unit cost of service and making it possible to offer lower rates to shippers.

Railroads with inefficient routes, or who otherwise profited from the equalization scheme, continue to object to Conrail's right to price its own services without seeking their consent. But independent pricing has attracted new, price-sensitive traffic, reduced operating costs, and helped Conrail to win traffic back from other modes. This marketplace success has persuaded other railroads also to seek to price their services independently.

Today, Conrail is pioneering the technological effort to make independent pricing simpler and more efficient. Working with an independent computer firm, Conrail developed a computerized ratemaking plan that allows railroads to set their rates faster, reduces the number of errors, makes a wider range of rates more easily available to shippers, and allows rates to be changed quickly in response to competitive pressure. Other railroads were initially dubious, but because Conrail was willing to devote substantial time and money to develop a workable system, others are also adopting computer age pricing technology.

As late as 1984, twenty-six of the country's twenty-nine Class I railroads asked the ICC (and later the U.S. Court of Appeals for the Second Circuit) to allow collective ratemaking to continue in effect for inflation-related cost increases. Recognizing that all rate changes must reflect competitive conditions, Conrail opposed this request, and developed a fast and efficient means for railroads -- acting independently -- to seek and receive one another's concurrence in raising multi-carrier rates to recoup cost increases. When some carriers continued to resist, Conrail and others sought and received a Justice Department Business Review Letter allowing the plan to be implemented without antitrust risk. Only two other railroads joined Conrail in its successful opposition to the efforts of the rest of the industry to get the federal courts to allow continued collective ratemaking.

Conrail has fought alone for other forms of deregulation, as well. For example, in an effort to save the boxcar from virtual extinction because of its regulation-induced high costs and equalized joint rates, Conrail successfully petitioned the ICC for boxcar deregulation. Although actively opposed by most other railroads, Conrail proved to the ICC that only through deregulation could boxcar costs -- and rates -- be reduced, and the boxcar returned to use after a twenty-year decline. Partial boxcar deregulation has been in effect for nearly two years, and even though subject to constant legal challenge, its benefits are now widely apparent.

Numerous other examples could be cited, including Conrail's recent agreement with the Chlorine Institute on rules to resolve future joint rate and switching disputes, which, for the first time, applies the pro-competitive principles of the antitrust laws to rail ratemaking practices.

The common thread in each of these examples is Conrail's belief that it can survive and prosper in a competitive world and its willingness to fight for the right to put this belief into practice. This faith in the competitive process has shown results -- most obviously a $500 million profit in 1984. These results have convinced other railroads to follow our lead.

An independent Conrail will continue to play this leadership role, which we believe is vital to the success of deregulation.

CONGRESSIONAL DEBATE OF CONRAIL

Senator LAUTENBERG. Mr. Burnley, on March 13, I and three of my colleagues wrote to the Secretary expressing our concern with rumors that the Conrail sale would be put in budget reconciliation and thus avoid the normal procedures of the Senate. The Secretary responded on March 26 to the effect that such a plan was not her intention, nor was it her call.

Do you think placing limits on Senate debate of this complicated question is advisable?

Mr. BURNLEY. Senator, we do not, and that is why we have tried to do all that we could to be cooperative with both the Senate and the House as we have had quite a wave of hearings. I do not mean to even suggest a complaint about that. We did expect—we are quite comfortable with the most intense congressional scrutiny of this proposal.

So, it is not our desire at all to duck that. And in fact there have been in the last week two hearings before the Senate Judiciary Committee.

I understand that a hearing has been laid on for this afternoon before the Senate Commerce Committee where they have already had a hearing, and they originally spent 2 days in late February.

So, we are quite comfortable with continuing full debate on this.

Senator LAUTENBERG. Would the Department support our interest in having it out of the reconciliation instructions, and can I count on a phone call to Mrs. Dole to have her respond back by calling the chairman of the Budget Committee and others involved in saying, OK, we want this thoroughly reviewed, we want to feel comfortable with the decision when it is done, and therefore we would ask you on behalf of the administration not to include it in the reconciliation language?

Mr. BURNLEY. Well, Senator, it does say deputy in front of my title. And her letter of March 26 to which you have made reference does state her position and the Department's position quite fully, and says that she has not requested that the leadership in either House pursue any particular legislative strategy, and that that decision remains in the hands of the Congressional leadership.

I think that I, being a deputy, should stand on that.

ATLANTIC CITY RAIL SPUR

Senator LAUTENBERG. OK. You should not, but we will permit it.

You talked about—by the way, I could not help note your comment about preference for air—train travel when available. It makes it just a little bit perplexing when we look for $30 million that was originally authorized for the Atlantic City rail spur, where we have presently 1,000 buses a day, with the fumes, and air quality, and problems of highway congestion, why it was that suddenly there was a decision made that this project ought not to go through, and the projections are that it would be a viable, self-paying rail spur. It would be an integral part of the northeast passenger system, and could help with traffic generally.

Mr. BURNLEY. Senator, I appreciate your bringing that up, because I hope that the record can be clear on that. We have not made a decision that there should be no passenger rail service between Philadelphia and Atlantic City.

Quite the contrary, the Federal Railroad Administration has continued to work with the Governor's office, and we continue to do everything we can to be of assistance in exploring that.

Now, obviously, if Federal subsidies for Amtrak are eliminated, the question then becomes whether there is sufficient demand for those who wish to travel between those two cities to justify the service, and that is a decision that can still come out in a very positive way if you have the traffic there to support the rail service.

Senator LAUTENBERG. Did you encourage the deferral of the funds?

Mr. BURNLEY. We are simply seeking the elimination of Federal subsidies generally for the Amtrak system. We have by no means singled out that particular route, and again to the contrary we continue to be in touch with the State of New Jersey to work through the outstanding issues on that.

As you know, there has been a good deal of give and take on this among some members of the House delegation and the Governor's office. And we have tried to make clear to all concerned that we are not interested in being in the middle of any sort of political football game.

We want to look at this on the merits and be as helpful as we can. Obviously, if we do not have any Amtrak subsidies, then again this particular segment would have to stand on its own.

AMTRAK SUBSIDIES

Senator LAUTENBERG. Then let us talk about the Amtrak subsidies for a moment. Mr. Crane, and I am not asking you to endorse Mr. Claytor's view of what would happen if these subsidies dropped off, but I would put to you a question that presupposes the demise of Amtrak.

What does that do in terms of costs for Conrail and your general ability to operate through the area served?

Mr. CRANE. It is very difficult to give you an answer on that, Senator, because we do not know exactly what would happen. Right now Amtrak owns the corridor. We have the right to serve the industries that are on the corridor. If Amtrak, let us say, has no subsidy, I do not know what the Federal Government would do with respect to the ownership of the corridor and whether we could even operate on it as a matter of fact.

We have made a study assuming that the Congress said, well, you simply keep that part of the corridor that you need for freight operation, and the rest of it will go. We have not placed any price tag on what we would pay for that. That would be the will of Congress, obviously.

We do know that there would be substantial labor protection, and the numbers are very large. Whether they are large enough, let us say, to render Conrail financially nonviable or not is something that we have not concluded yet.

We do not think we have quite the amount of labor protection that Mr. Claytor offered in his testimony, but I would not mislead you, sir, by telling you that there is not substantial labor protection there.

Senator LAUTENBERG. How about operating costs? Will they change as a result of some—I believe it is signal service and other kinds of service?

Mr. CRANE. Let me say that despite the fact that we probably do not need anywhere near the number of tracks that they have in the corridor, we undoubtedly would incur additional operating and maintenance costs as compared to what we incur at the present time in the shared operation.

Senator LAUTENBERG. And therefore that would impact negatively on Conrail's earnings?

Mr. CRANE. That is correct.

Senator LAUTENBERG. So it is not without cost that Amtrak's termination could take place.

Mr. CRANE. Oh, absolutely, Senator. As Mr. Claytor has presented in his testimony, which I had the privilege of reading, it not only involves the corridor, it involves much of the long-distance passenger operation in the country with the rollback of the protected employees who will be displaced as a result of the elimination of that passenger operation and the protective conditions for those employees which had been mandated by previous Congressional action.

CONRAIL PUBLIC OFFERING

Senator LAUTENBERG. Back to something that we talked about earlier, Mr. Crane, I asked you about your projections on how they relate in connection with the public offering proposal, how they compare to USRA's figures, and you said that they were not as I remember terribly—that you could not necessarily agree. Let me ask you to restate your view on that, because I want to ask Mr. Berger a follow-on question.

Mr. CRANE. Let me say our projections, Senator, are not substantially at variance with what the USRA has in their projections.

Senator LAUTENBERG. Yours does include, however, provision for the dividend payout?

Mr. CRANE. I do not believe the USRA has any projection in here for dividend payouts in theirs. and let me say we have some projections in ours, but there again let me say our projections, and I do not have them with me, but I would be glad to submit them to the committee for the record, indicate that we can accomplish the dividend payouts.

I might add that——

Senator LAUTENBERG. Without impairing the railroad's continued ability to finance itself?

Mr. CRANE. We could accommodate the dividend payout, Senator, while maintaining a capital program at the $500 million level through the 5-year period with internally generated cash and the only external borrowing that would be required would be for the financing of equipment, which we normally borrow for anyway.

Let me say the original analysis that we provided to the Department of Transportation as well as others indicated some borrowing in the out years, but that was with a very much larger program than is specified in the covenants required by DOT. As a result, when you reduce the capital program down to the $500 million level which DOT has specified in the covenants, we do not require any external borrowing in order to cover the dividend payments.

QUESTIONS ON PUBLIC OFFERING

Senator Lautenberg. Mr. Berger, do you want to comment on Mr. Crane's views?

Mr. Berger. I am in the right place, sitting right between everybody. Let me make a couple of comments. First, I said earlier on that when you look at the projections for a corporation over a 5-year period, which is a long period of time, you are looking at a dynamic situation, not a static situation.

I would assume there would be change in response to economic conditions. That affects whether it is the Norfolk Southern that is owning the railroad, somebody else, or Conrail. But the amount of investment that would take place in a particular year would be driven by need, and need is driven by traffic and driven by economic conditions, so that the numbers are useful as guides.

They are, as you know as a businessman, they are guides. When you are projecting 5 years out that is what you have.

Second, and this is, I suppose, a comment to both the ground rules established by the Department and the form of the public offering which Mr. Crane has projected, I was asked this question by the House last week, and I will say the same thing here.

If one wanted to talk about a public offering situation one would really have to decide how to structure the public offering, and by that I mean you would have to talk about the ground rules.

I have said to the department that I have some questions. We have not discussed price, and that is appropriate. I do not think anybody should be talking price at this point. We should be talking policy first. There is the question of residual value to the Government with models such as the Chrysler model and other models that are in place. I have a series of questions, if not answers, at this point. If somebody were to say we really want to do a public offering, how should one in fact structure that public offering? What kinds of questions should one first ask about the public offering before one concludes that the model that Mr. Crane is presenting is the best model in fact that we ought to have?

THE PROJECTIONS

Senator Lautenberg. Well, do not presuppose that the public offering is there. I mean, it is a suggestion. It is a proposal. It has gotten a lot of interest. But I would like to deal more with the fundamentals, and regardless of what the final sale route is or retention route is, what does it do, Steve, to the fundamentals presented in this projection, P&I. balance sheet, et cetera?

Mr. Berger. To do Mr. Crane's proposal is what you are saying.

Senator Lautenberg. No; I am saying he says that his projections are not at great variance, if I can use the expression, with yours.

Mr. Berger. That is correct.

Senator Lautenberg. I am asking for your confirmation or view on that, because we do not have the dividend payout in there, and is it likely that when we look 5 years out, because that is going to determine for sure what happens with a public offering, and it also is going to determine what the likelihood is that the Government may once again own the railroad even if it goes public.

So I would like your response.

Mr. BERGER. My first caveat is, we really only looked 4 years out, and I want to limit it to that. Second, what our numbers do show is that if you add to that a level of additional costs——

Senator LAUTENBERG. And then including—I am sorry—including the public offering result with dividend commitments, et cetera.

Mr. BERGER. Correct. If you were to add those costs and you were to maintain a $500 million capital account—which I think is excessively conservative, but I understand why the Department is asking for it—Senator, then Conrail would have to do some borrowing for normal capital investment.

Why I am uncomfortable about getting in the middle of that debate is that I would not be in a debate if I were structuring a public offering. We would have to think about the whole question of that structure if that is where you came down and do it very differently.

That issue to some extent is a policy issue first. It raises some policy questions which have not yet come to the table.

Senator LAUTENBERG. Steve, your net income projection, $207 million 1986, assumes industry wages, State taxes?

Mr. BERGER. Yes.

Senator LAUTENBERG. Job protection?

Mr. BERGER. Yes.

Senator LAUTENBERG. We have just talked about the dividend payment which is part of Mr. Crane's public offering proposal.

Mr. BERGER. It does not.

Senator LAUTENBERG. How would the dividend payments affect that bottom line as projected by the management offering?

Mr. BERGER. We have not done that.

Mr. CRANE. I believe that as Mr. Burnley stated to you, Senator, our proposal has a $600 million amount of preferred and a $500 million of common. Am I correct, Mr. Burnley?

Mr. BURNLEY. That is the proposal, Mr. Crane, that you submitted to the department in January. Yes, sir.

Mr. CRANE. And we talk perhaps of paying a 12-percent annual dividend on preferred which would be $84 million a year and a 7-percent dividend on the common which would be $35 million a year, for a total of $119 million on an annual basis.

I assume, Mr. Berger, that if I took $119 million off the cash on hand at the bottom of your statement there, although my cash would drop down to $815,864,909.70 over the 4-year period, still the cash would be ample there.

Mr. BURNLEY. If I may comment, Senator, the only problem with that arithmetic is that you also have to take the $300 million off what Mr. Crane proposes to pay the Government on the day of closing, and that makes a substantial difference.

So, if we are going to do the arithmetic out loud, we ought to put it all in.

Mr. **Crane**. We have $600 million of preferred and $500 million of common. That adds up to $1.1 billion.

Senator **Lautenberg**. I do not know whether we can assign Mr. Berger nonalignment here. That is probably not an appropriate designation.

What is the conclusion in terms of what is left after the dividend requirement to get a public offering as outlined by management? I am not asking for your version of a public offering.

Mr. **Berger**. Let me come back and give you the numbers. I have not done that. We did not do an assumption of either sale. We did the viable company as standing alone.

DEBT TO EQUITY RATIO

Senator **Lautenberg**. OK. Just a couple more quick things, because Senator Kasten has some questions that he wants to ask.

What is Conrail's present debt to equity ratio? What is it for Conrail?

Mr. **Crane**. Let me see. I think it is something like about 80 percent, if I am not mistaken.

Senator **Lautenberg**. What is Conrail's debt to equity if the debt to the Government is forgiven?

Mr. **Crane**. It would drop down to 22 percent. I know that number.

Senator **Lautenberg**. Twenty-two percent. What is the debt to equity ratio typically of other class 1 carriers?

Mr. **Crane**. Generally the debt equity ratio of a class 1 carrier is somewhere around 35 percent, I believe.

Senator **Lautenberg**. Just one last thing. Mr. Berger, an item not assumed by USRA was the repayment of debt to the Government.

Mr. **Berger**. That is correct.

NEED TO SELL NOW

Senator **Lautenberg**. One reason for your optimism is that we do not have to sell Conrail now, that it is doing fine, and we can keep it for a few more years. We are not subsidizing its operations any more.

Is that a fair representation, that there is no need to sell it now, that we do not get worse, that things continue as they are?

Mr. **Berger**. I think you took me down one more station than I was at. It is correct. I do not think there is a need to sell the railroad now. That is correct. But I think one could.

The question as to whether you sell it is a policy rather than a financial question in terms of what the immediate return is. On the issue of debt, the reason we did not consider the Government debt and repayment was, for all intents and purposes, that was taken off the table in NERSA. That was a policy decision made by the Government and the Congress when NERSA passed. That is why we did not consider it.

IMPACT ON SOUTH DAKOTA

Senator LAUTENBERG. Thank you, Mr. Chairman.

Senator ABDNOR [presiding]. Thank you, Senator.

Mr. Burnley, I would like to pursue the exchange you had with Chairman Andrews a little bit ago. You hit a very sensitive nerve with me when we talked about this subject. I am firmly convinced that not only this administration, but others as well, forgot there is a rural America around.

As a matter of fact, I am devoting all of my attention as vice chairman of the Joint Economic Committee to bring out what is happening in rural America, and I am not just talking about farming.

I get these glowing economic reports. All the vital signs have never been brighter. And the economic recovery is one of the greatest in 30 years. Unfortunately, that has not happened out in rural America. I wish someone would drop in and see what it is like out there some time.

There are certain things in Government I just feel that the people in this country are entitled to, like first-class mail. We decided at one time that people should have electricity, and I think they should be able to get in and out of South Dakota and other rural States in this country.

I was over in the House when they deregulated the airlines, and I voted against that. Everything I said has come true. We had a great sales job by my good friend in those days, Secretary Coleman.

He told me I was needlessly worried about things that were not going to happen. He said, "Congressman, we had South Dakota in mind when we had this one subsidy." Since that time, I have prophesized right.

But if you drop this, I think it means that my State, for instance, would not have any way by air in and out of the State capital. I believe that is important. They need it.

Now, we finally have a service. It is a commuter service. It is working. I suppose if you stay in the eastern part of the State, Sioux Falls, you are all right, but there are other areas in this State, like going out to the State capital.

I just cannot understand who thought this up, as large as this subsidy is, what it means to America, because we are all part of America. We like to be able to get back and forth, and come into Washington to testify.

What is the thinking, that this is a kind of program that we have to delete? What is behind it? Do they give no consideration to the ramifications or what it might mean?

Mr. BURNLEY. Senator, let me answer you this way if I might. When the Congress passed the 1978 act, it set this program up, the essential air service program, as a transitional program, and as you know, it was to sunset after 10 years. The administration proposal is to accelerate that day by 3 years.

Senator ABDNOR. The other program got out a lot quicker than 10 years. I mean, they started changing the rules on that one shortly after they put it into effect a few years later. But go ahead.

Mr. BURNLEY. I am just saying in terms of the underlying rationale, this program was intended all along as a transitional program.

Now, there are four communities, according to our records, that are now receiving subsidized air service in South Dakota, Brookings, Huron, Mitchell, and Yankton. And with the exception of Huron, in other words, in three of those four, each of them was within approximately an hour's driving time of an airport where there is unsubsidized commercial service available today.

And looking at the kind of budget constraints that we have all had to cope with, it did not seem justifiable to continue subsidies where there are alternatives and where the program itself was viewed from day one as a transitional program.

Thus, there was a decision to propose that it be phased out 3 years earlier than was originally contemplated.

Senator ABDNOR. I did not catch all that. What did you say about Yankton?

Mr. BURNLEY. What I said was that of the four communities in South Dakota now receiving subsidized air service, three of them are within approximately an hour's driving time of airports where commercial, unsubsidized service is available today, and that the community where the driving time is longer is Huron because of the distance to Pierre or Sioux Falls.

So, the only point I was trying to make was, we were not leaving folks stranded, and that obviously there will be additional driving time required, but frankly, Senator, the driving time that you are looking at on three of the four communities, at least, is not—and I do not mean to be frivolous about this; I think it is literaly true—not much different from downtown New York to one of the New York City airports.

Senator ABDNOR. Maybe by going 80 miles an hour, but to go from Huron, SD, to Sioux Falls is 120 miles, and that is a lot farther than it takes to go to the airport in New York.

In my State, for example, we lost all of our railroads. We are trying to do something, and rural America is trying. We went out and taxed ourselves to buy a railroad, and thanks to Burlington Northern, who took it over for us, they are making it work.

If we thought we could subsidize services, if we had some capital, we might. States like South Dakota are not exactly a wealth of dollars.

Do you think we should go without mail because we are not paying our fair share for first-class mail? That is going to be the logic I am going to hear some day, I am sure. I think communications are important. Incidentally, we never had Conrail or Amtrak up there. We got by without it. I suppose we can keep getting by without it.

I would like to think we are part of the Union in this country, and certain things ought to be kept alive. Are you going to tell me that Pierre is not being subsidized at all? The Masaba coming into Pierre, SD? That is not presently being subsidized?

Mr. BURNLEY. No; there is no subsidized service into Pierre at the moment, not by the Federal Essential Air Service Program.

Senator ABDNOR. The Masaba line to Huron, that is.

Mr. BURNLEY. Huron, Brookings, Mitchell, and Yankton are the four places with subsidized service from the EAS Program.

Senator ABDNOR. If they pull out of those others there is no assurance that they are going to play around with Sioux Falls—with Pierre.

Mr. BURNLEY. Again, we have no role at all in either Pierre or Sioux Falls, because they now are getting that service without subsidy.

Senator ABDNOR. They are, but when you start pulling the rug out from under the rest of the Masaba, you could be telling a whole different story. This is serious.

If we are talking about hundreds of millions of dollars to take care of rural America throughout the United States, that would be one thing, but this is the wrong area to start picking on.

When we start talking about balancing budgets, making cuts, I think I have a fairly decent voting record on that. However, I have been applying a certain formula of my own, and this thing called fairness has got to be one. There are some things that just have to have some attention.

Like I said, I suppose we could save a lot of money in post offices if we had to get rid of first class in my State, because we do not have enough people there.

We probably pay the price down the road with the telephone business, but let me tell you, it will be a lot different now that we have deregulated it and broke up what we had.

I will come back to you in 5 years and tell you what the picture looks like. It is not going to be very rosy out in some of those more rural areas. We are not going to see any of the new programs that will be coming into effect.

Well, I just wanted you to know that I am violently opposed to this and intend to do everything I can to see that this item stays in the budget.

Senator Kasten.

CONRAIL FINANCIAL VIABILITY

Senator KASTEN. Mr. Chairman, thank you. Basically, I am concerned about the same issues that Senator Lautenberg was talking about, the long-range financial viability of Conrail.

Even though the Conrail profits have risen over the past year or two, I wonder, Mr. Crane, what exactly were Conrail's earnings for January and for February?

Mr. CRANE. We lost $2 million in January, and we made $10 million in February.

Senator KASTEN. What do you project profits to be for the rest of the year?

Mr. CRANE. We expect profits for the rest of the year, we have made a revised projection in the USRA yesterday of $465 million.

Senator KASTEN. Thank you.

Mr. Chairman, thank you very much.

SUBMITTED QUESTIONS

Senator ABDNOR. That concludes the questions. Other questions from Chairman Andrews and Senators Chiles, D'Amato, and Byrd will be submitted in writing.

[The following questions were not asked at the hearing but were submitted for response for the record:]

U.S. RAILWAY ASSOCIATION

QUESTIONS SUBMITTED BY SENATOR ANDREWS

USRA RESPONSIBILITIES

SENATOR ANDREWS: The Outlook for Conrail report suggests that Conrail is a fundamentally stronger entity than the one analyzed by the Association just one year ago. On what basis do you make that statement?

ANSWER: Our previous study was conducted in early 1983, based upon Conrail's actual results through 1982. While that study projected a modest positive cash flow for Conrail during the subsequent five years, this was dependent upon continuation of state tax relief, federal payment of employee severance benefits, and wage concessions. Furthermore, we cautioned that the outlook was dependent upon macroeconomic assumptions which were unusually speculative at that time. Our current outlook for Conrail uses much less controversial assumptions about the economy, and projects that Conrail will be able to achieve positive cash flow even after paying state taxes, severance expenses, and industry scale wages. The foundation of that improved outlook is Conrail's continued success at incremental cost savings. Its four-year track record in that regard, since 1980, establishes a rebuttable presumption that Conrail can manage its way to self-sufficiency under any reasonably foreseeable set of circumstances. However, as the report points out, if Conrail must adjust to further long-term traffic declines, its ability to remain viable is dependent upon the freedoms provided to all railroads by the Staggers Act of 1980.

SENATOR ANDREWS: Can the proponents of the public stock offering of Conrail use this analysis to support the position of a stand alone rail operation?

ANSWER: Setting aside all other considerations, the improved outlook for Conrail makes a public offering a more credible possibility than would otherwise have been the case.

SENATOR ANDREWS: It was recently reported that Robert Claytor, Norfolk Southern's Chairman, believed that Conrail would survive the next four to five years, but that by the early 1990s, "Conrail will be in a negative cash position. If we (Norfolk Southern) don't get it now, we think it will be available in 10 years at a reduced price." Do you agree with that statement?

ANSWER: The Norfolk Southern prediction of Conrail's situation in the 1990's results from its assumption that cost inflation during that period will be greater than the level of tariff increases that Conrail can exact from the marketplace. The tariff constraint in that assumption is believed by Norfolk Southern to arise from truck competition. Assumptions about such economic factors so far in the future are quite speculative, and cannot be critiqued in any scholarly sense. It is appropriate to note, however, that Norfolk Southern also must assume that Conrail would not be able to take any actions that would mitigate or offset the impact of a cost-price squeeze if one occurred. We know of no reason to support this assumption of management inaction.

SENATOR ANDREWS: Opponents of the public stock offering state that USRA's analysis showing net income declining from $500 million in 1984 to $207 million in 1986 means trying to sell the stock in the face of declining profits and thus receiving a smaller return than the proposed sale to Norfolk Southern. Why does the estimated net income for Conrail drop from $428 million in 1985 to $207 million in 1986? Why does estimated net income then rise to $262 million in 1987 and $459 million in 1988?

ANSWER: The outlook used a recession cycle as the basis for the macroeconomic projections underlying Conrail's traffic forecast. The recession was assumed to take place in 1986, with recovery commencing in the second half of 1987. By 1988, it was assumed that Conrail's traffic would have returned to pre-recession levels. The outlook illustrates the possible negative earnings impact of such a recession, but we are not predicting that a recession will or must occur. Absent a recession, Conrail's earnings could be expected to grow steadily after 1985.

SENATOR ANDREWS: Did the USRA analysis uncover anything that wasn't already known? How will the study results be used?

ANSWER: USRA evaluates confidential Conrail data not available to the public. A key concern in our study was to understand the causes of Conrail's cost reductions. Before it was possible to conclude that the cost reductions were permanent, it was necessary for us to rule out extraordinary or nonrecurring causes. We are now quite confident that Conrail's four-year track record of continuous cost improvement represents permanent change as well as an institutional capacity to bring about further change in the future. While no one can guarantee the future, our study should provide a reasonable basis for confidence in Conrail's viability.

SENATOR ANDREWS: In addition to the recently released staff report, USRA has been working with Lazard Freres on a report about Conrail. What is the status of that report?

ANSWER: USRA's report, tentatively scheduled for June, on the impact of a merger of Conrail with Norfolk Southern will incorporate the results of Lazard's review of the financial aspects of the transaction.

SENATOR ANDREWS: What is Lazard Freres suppose to analyze?

ANSWER: Lazard is to analyze, from the standpoint of the financial market and the business community, financial data related to both the sales transaction and the operation of the merged railroads.

SENATOR ANDREWS: What is the timetable for that report?

ANSWER: USRA's final report is tentatively scheduled for late June, but is dependent upon expeditious data release by Norfolk Southern and the acquiring carriers.

SENATOR ANDREWS: No more than $200,000 was supposed to be spent on this report, how much has been spent to date? What has that money been spent on? Are there any findings to date you could share with the Committee?

ANSWER: Lazard's work has not progressed to the point where we can offer a meaningful report, in part because of delays in getting the pertinent information from Norfolk Southern. Lazard is being paid at the rate of $50,000 per quarter up to a maximum contract price of $200,000.

SENATOR ANDREWS: Why is it necessary to employ the services of an outside contractor to assist in this study?

ANSWER: USRA's expertise is in operational and financial analysis of railroads, in particular Conrail. To evaluate all aspects of the proposed sale of Conrail, it was felt that we should have the assistance of experts knowledgeable about the financial markets and experienced in structuring and reviewing complex corporate transactions.

SENATOR ANDREWS: What specific expertise did Lazard Freres possess that USRA did not have?

ANSWER: Knowledge of financial markets and large, complex corporate transactions.

SENATOR ANDREWS: How much of your thirty person staff is involved with the analysis? In what capacity?

ANSWER: At the present time, one member of the staff, among his other duties, serves as USRA liaison to Lazard, Norfolk Southern, and its investment banker. Lazard has not required any special studies by USRA.

SENATOR ANDREWS: Will USRA be contracting out any more studies? If so, why? In what areas?

ANSWER: We have no plans for retaining additional professional advisors.

SENATOR ANDREWS: Are outside contracts budgeted for in the request for $3 million in new appropriations? How much is set aside for this type of activity?

ANSWER: $150,000 has been tentatively earmarked for contractual professional services, the major portion of which is for our outside counsel and the continuing services of a retired railroad executive to monitor track condition and Conrail's capital programs.

SENATOR ANDREWS: If USRA receives a large number of requests for analysis, what kinds of investigations would best be done by outside contractors?

ANSWER: USRA conducts its studies with its own staff to the maximum extent possible. The only times that we would consider using outside contractors would be when the work required expertise that we did not possess. Except to the extent that a study request required us to consider nonrailroad issues, we would not expect that to happen in the future.

SENATOR ANDREWS: Would USRA request supplemental funding to finance these studies (if necessary)?

ANSWER: We do not presently foresee the likelihood of needing supplemental funding to support our responding to the kinds of study requests associated with the sale of Conrail. If Congress should provide us with additional functions, as happened in the case of the Alaska Railroad valuation study, we would of course require incremental funding.

SENATOR ANDREWS: How does USRA determine what studies will be done in-house and which studies are contracted out?

ANSWER: We have only contracted for skills not available from USRA staff.

SENATOR ANDREWS: In the prepared statement, you stated that Senator Metzenbaum of the Judiciary Committee requested USRA to assess the sale and divestiture plan called for by the Justice Department. Will this be done in-house?

ANSWER: Yes.

SENATOR ANDREWS: How many persons (and for what amount of time) will work on this study? When will this study be completed?

ANSWER: This study is part of a larger effort to evaluate all of the competitive and other effects of the proposed merger, as requested by the House Energy and Commerce Committee and its Subcommittee on Commerce, Transportation and Tourism. The entire Conrail evaluation staff of USRA as well as our executives are working on this study. If data is available from Norfolk Southern and the acquiring carriers on a timely basis, we hope to produce an interim report in early May and a final report in late June.

SENATOR ANDREWS: In looking at the resulting competitive structure of a Norfolk Southern/Conrail merger will USRA measure the competitive situation using geographic pairs like the Justice Department, defining the market areas as counties?

ANSWER: USRA will not use the same screens as Justice, but will instead concentrate on traffic flows. The effect of the combined system on rail movements between traffic-producing areas will be considered on a market-by-market basis. Further, the Association will examine other aspects of competition such as service quality, source competition, price competition, gateways, and equipment supply.

SENATOR ANDREWS: What are the usual measures used in analyzing the competitive aspects of a merger?

ANSWER: In rail mergers, many aspects of competition are considered in public hearings before the Interstate Commerce Commission. This procedure, which allows both the proponents and opponents of merger as well as others such as the Department of Justice's anti-trust division to submit their cases, ranges far beyond point competition. The Commission normally hears evidence on source competition, operating plan, traffic flows, gateways, employment, shipper effects, geographic competition, community impacts, and other effects in addition to point competition.

SENATOR ANDREWS: Were the usual criteria used by Justice in analyzing the Norfolk Southern/Conrail merger?

ANSWER: The criteria used by the Justice Department were similar in concept to those normally used by the Department in their submissions to the Interstate Commerce Commission in a normal rail merger. There are some differences from the other current Justice work, their submission in the Santa Fe-Southern Pacific merger now before the ICC. In the SF/SP, there is consideration given to truck competition, which is not considered in the NS work. Also, in the SF/SP analysis, source competition is considered by the Department, but was not included in NS analysis. The geographic and commodity definitions in SF/SP also differ from those used in the NS analysis by the Department. In addition, Justice gave far more emphasis in SF/SP to traffic flows rather than just looking at point connection. The Department's SF/SP analysis was dynamic; the analysis employed on NS/CR was static.

SENATOR ANDREWS: USRA has also been asked to study a more parochial issue, i.e., the impact of the proposed sale on the Philadelphia region including the port of Philadelphia. Can USRA do this study? When do you expect to have that completed?

ANSWER: The study will be completed by April 15, as requested by Congressmen Florio and Foglietta. In this instance, USRA can do little more than dimension the issues or indicate something about the possible range of impacts. It is not possible to predict management behavior of the Norfolk Southern as it might affect Philadelphia.

SENATOR ANDREWS: With the possibility that USRA may be asked to do more and more studies both macro and micro in nature does the agency have a way of assigning priority to requests?

ANSWER: The studies presently requested of USRA are interrelated and have not required us to prejudice one in the favor of others.

SENATOR ANDREWS: That is, how and why and when will USRA say "no" to a request to study a particular aspect of Conrail?

ANSWER: If USRA could not perform a study in a useful or timely fashion, that would be explained to the requestor.

SENATOR ANDREWS: What types of studies and from whom have priority?

ANSWER: All of the requests to date have come from members or committees of Congress and have involved a number of interrelated aspects of the Conrail sale, and are being responded to in an integrated effort on a schedule acceptable to the requestors.

BUDGET REQUEST

SENATOR ANDREWS: USRA requests $3 million for fiscal year 1986, to fund 30 full time employees. How was this figure derived?

ANSWER: The $3 million requested for fiscal year 1986 represents total funds required by USRA to finance all Association costs including personnel costs, travel, printing, supplies, rents, utilities, communications, and contractual services. The cost for each of these areas represent our best estimate based upon current salaries and other fringe costs such as employer share of FICA, Railroad Retirement, Workmen's Compensation, etc., for personnel-related costs; historical costs for travel, printing and supplies; and actual lease agreements for space rental.

SENATOR ANDREWS: How much of the $3 million is for personnel expenses? How much non-personnel?

ANSWER:	Personnel-related costs including travel	$2,180,000
	Non-personnel costs	820,000

SENATOR ANDREWS: Of the non-personnel costs, how much is for contracting work outside the agency?

ANSWER: $150,000 for professional services and $175,000 for administrative services including equipment maintenance agreements.

SENATOR ANDREWS: What types of personnel does USRA employ? For the record please provide the Committee the number and types of personnel (i.e., areas of expertise) employed.

ANSWER: Chairman's Office: total staff 5, including one clerical (Executive Administration, General Counsel, Corporate Secretary).

Conrail Evaluation Department: Total staff 20, including Staff Director and 3 clerical. Major functional groupings are:

3 Financial analysts;
2 Marketing analysts;
1 Engineer;
4 Operations and cost analysts;
2 Application programmers;
3 Computer specialists.

Accounting, personnel, and miscellaneous activities such as reproduction, purchasing, archives, receptionist/switchboard: total staff 5 including one clerical.

SENATOR ANDREWS: Is USRA deficient in a particular skill area that may be necessary to study a particular aspect of the Conrail sale?

ANSWER: The USRA staff provides the necessary skills to evaluate Conrail's operations and its finances. We chose to retain Lazard for their knowledge of financial markets and complex corporate transactions.

SENATOR ANDREWS: This Committee has responsibility to review the necessity of funding under Section 701(D)(2) of the Northeast Rail Service Act which continues the Conrail labor protection program for 18 months after the transfer of Conrail. Has USRA done an analysis or can you now provide what is your estimate of potential Section 701 payments under the proposed sale?

ANSWER: USRA has not yet done an analysis of the potential 701(D)(2) requirements that would arise after the transfer of Conrail. It is our understanding that the Conrail sale bill introduced in the Senate would eliminate Section 701.

SENATOR ANDREWS: Congress enacted legislation at the end of 1983 which extended the term of the USRA chairman for two years or until the end of 1985. What happens past that point? Do you intend to stay?

ANSWER: Chairman Berger's term expires on December 31, 1985. NERSA provides that the Chairman may be reappointed by the Board of Directors for a three-year term. The Board has not discussed this matter.

SENATOR ANDREWS: Is there a need for additional legislation that extends your term (Mr. Berger) past the end of 1985?

ANSWER: Under the present law, the USRA Board could reappoint Mr. Berger for a three-year term.

PROPOSED MERGER

SENATOR ANDREWS: Last year, in front of this Committee the Federal Railroad Administrator stated, "Competitive considerations are obviously very, very important in our weighing the public interest criteria". (pg. 423 last years hearing) Is the public interest criteria served by the proposed merger?

ANSWER: We will be able to better answer this question after we complete our analysis of the competitive impacts of the merger.

SENATOR ANDREWS: The Department of Justice "believes that a sale of Conrail to Norfolk Southern must be expressly conditioned on the prior or concurrent divestiture of rail assets to an independent entity or entities capable of providing long-term, viable and competitive rail service along this corridor" (Buffalo and Pittsburgh on the east and Chicago and St. Louis on the west). I understand that Guilford Transportation Company and the Pittsburgh and Lake Erie would be the entities acquiring certain assets of Conrail and/or Norfolk Southern so as to provide service in the area mentioned. Are you aware of these proposals?

ANSWER: Generally, yes. Neither the Department of Transportation nor the involved carriers have provided us with any more detail concerning these proposals than has appeared in the public media.

SENATOR ANDREWS: Mr. Berger, has the USRA looked at the capacity of these two organizations to compete with a merged Conrail-Norfolk Southern? If not, are you aware of how the

Attorney General proposes to satisfy himself that the two organizations can compete effectively with a merged Conrail-Norfolk Southern?

ANSWER: We intend to examine the viability of the acquiring carriers. However, this work cannot commence until a final divestiture plan has been agreed to by the parties, and they supply us with operating plans, traffic projections, financial pro formas, and the like. The Justice Department has not been able to tell us how they will evaluate the viability of the acquiring carriers.

SENATOR ANDREWS: Can Guilford Industries and the Pittsburgh and Lake Erie provide competition to the combined Norfolk Southern/Conrail system? Has USRA studied the financial viability of these two railroads? If so, what is your assessment? If not, do you plan to do so? Will it be part of the study requested by the Senate Judiciary Committee?

ANSWER: We do not yet have the data to conduct such a study, but definitely intend to do so.

SENATOR ANDREWS: Mr. Berger, Conrail has a virtual monopoly in the Northeast (approximately 90 percent of the existing rail traffic). Does the proposed merger restore competition into this area?

ANSWER: While a more definitive answer will have to await the results of our study, we are not aware of any reason to expect that competition is enhanced by the merger in any of the areas where Conrail provides the only rail service.

SENATOR ANDREWS: Has USRA looked at this merger and the impact it would have on the large and mid-sized railroads in the West?

ANSWER: Such impacts are to be included in our present study.

SENATOR ANDREWS: If the object were to provide more competition, couldn't access to the New York region be provided to the Western railroads via trackage rights much like those granted to Guilford and the Pittsburgh and Lake Erie?

ANSWER: Trackage rights could of course be provided to any carrier. However, for a carrier to be competitive, it must have reasonable switch access to both origin and destination, a route with sufficient traffic density to cover its fixed costs and direct enough to render good quality, reliable service, and an adequate supply of equipment. It is doubtful that these characteristics could be met by New York traffic only. The route and rights to handle intermediate traffic would be critical. Without more specific proposals, a firm conclusion is not possible.

SENATOR ANDREWS: Could other railroads have been chosen (by Norfolk Southern) to provide competition in this area (west of Buffalo and west of Pittsburgh)? Which ones?

ANSWER: Yes, the Norfolk Southern could have chosen any railroad which connected to its merged property. However, the Department of Justice letter ruled out divestiture to CSX, and it designated Buffalo, St. Louis, and Chicago as gateways. This made the divestiture attractive to only the carriers who were at or could effectively carry some of their current traffic to the named gateways. But, there are railroads in addition to Guilford and Pittsburgh and Lake Erie that could have been chosen.

SENATOR ANDREWS: Do you believe that the Pittsburgh and Lake Erie (which has about 500 total track miles and financial losses the last three years) and Guilford Industries (with interests primarily in New England) will be effective competitors for Norfolk Southern?
ANSWER: We will address the viability of the acquiring carriers in our present study.

CONRAIL SALE VS. MILWAUKEE ROAD SALE

SENATOR ANDREWS: As part of USRA's responsibilities, industry comparisons between Conrail's performance and other railroads were conducted. Is USRA continuing to perform such analyses?
ANSWER: Yes. Our most recent published assessment is contained in the Appendix to our April 1985 staff report "Outlook for Conrail 1985-88."

SENATOR ANDREWS: Is USRA familiar with the workings of the Milwaukee Road?
ANSWER: Our only knowledge of the Milwaukee comes from the data compiled for the industry comparison studies mentioned above.

SENATOR ANDREWS: Based on route-miles, tonnage, ton-miles, investments, cash balance, total assets, etc., how much larger than the Milwaukee is Conrail? (Between five and six times?)
ANSWER: Based on the following statistics Conrail is about six times larger than the Milwaukee Road.

Comparison of Measures of Size
of Conrail and Milwaukee Road
for Year 1983

	Conrail	Milwaukee	Conrail Multiplier
Route Miles Operated	16,233	3,090	5.3
Track Miles Operated	35,539	5,753	6.2
Revenues Tons Carried (mils.)	181	33	5.5
Revenue Ton Miles (mils.)	70,286	10,625	6.6
Freight Revenue (mils.)	$3,076	$377	8.2
Cash (mils.)	$533	$113	4.7
Total Assets (mils.)	5,703	$1,014	5.6

SENATOR ANDREWS: Why doesn't the Conrail purchase price reflect the size difference? That is, if by most measures Conrail is five to six times larger than the Milwaukee why isn't the purchase price five to six times as large?

ANSWER: In determining the price that one company will pay to acquire another company the acquiring company will base its price on what it believes to be the future cash flows generated from operations. Only in a case when the acquisition is being made for purposes of liquidation does the amount of assets on hand directly enter into the calculation of price.

TAX IMPACTS

SENATOR ANDREWS: Mr. Berger, in the USRA reviews of Conrail's profitability potential, did you examine the Federal income tax consequences of various options for Conrail?

ANSWER: We have not examined the Federal income tax consequences of any of the various options.

SENATOR ANDREWS: In particular, what would the differences in Federal tax payments be for a sale of Conrail to Norfolk Southern, a public offering of Conrail, and a sale to other railroads?

ANSWER: The terms of the sales transaction, the taxable income of the entity resulting from the transaction, and other tax attributes of that entity have such a profound bearing on tax payment that one cannot meaningfully generalize about the differences related to the type of owner of Conrail.

SENATOR ANDREWS: Would Norfolk Southern be better placed than other railroads, for example CSX, to benefit from the tax aspects of the sale?

ANSWER: It would not be possible to answer this question without access to the tax returns of both companies.

QUESTIONS SUBMITTED BY SENATOR CHILES

SENATOR CHILES: Mr. Berger, the responsibility of the USRA is to review Conrail activities and advise the Congress on Conrail matters. In view of the fact that Conrail has a $3 billion value for tax depreciation purposes is a sales price of $1.2 billion a fair sales price for Conrail?

ANSWER: A fair sales price for Conrail is what a buyer would be willing to pay for it. At the moment, $1.2 billion is the market price that DOT was capable of generating.

SENATOR CHILES: We have heard from CSX, IG and other railroads regarding their opposition to the sale of Conrail to Norfolk Southern. I understand Mr. Crane of Conrail also opposes the sale of Conrail for Norfolk Southern. Mr. Berger, from an antitrust or competitive perspective, would you advise against the sale of Conrail to Norfolk Southern? In other words, will the merger of Conrail and Norfolk Southern have a significant negative impact on other U.S. railroads?

ANSWER: The merger will have a negative impact on some railroads. Until we have completed our studies, which at the moment cannot proceed until Norfolk Southern and the acquiring carriers complete their operating plans and projections, we cannot say whether such impacts are significant or not.

SENATOR CHILES: Mr. Berger, when you testified before the House, I understand you discussed transcontinental mergers. Do you believe there would be better economic rationale for east-west mergers that would be transcontinental instead of the north-south merger of Conrail and Norfolk Southern that would all be east of the Mississippi?

ANSWER: It is hard to compare the two types of mergers in just those terms, because there are different economic rationale for each. The Norfolk Southern-Conrail merger involves a degree of parallel facilities and service that would not be present in east-west mergers. Thus, Norfolk Southern's proposal offers the opportunity for enhanced efficiency through the consolidation or elimination of excess operations, service, and personnel. East-west mergers would involve significantly less such effects and the competitive impacts which accompany them.

SENATOR CHILES: The projected budget for USRA is for $3,000,000 and 30 full-time positions if Congress doesn't act on the sale of Conrail. If a Conrail sale is completed at some time during fiscal 1986, year, would USRA's requirements be scaled down proportionately?

ANSWER: Once Conrail is sold, USRA expects to phase out its operations in an orderly fashion.

SENATOR CHILES: There has been a thorough analysis of the financial situation of Conrail in preparation for the projected sale of the railroad. Why would it take 30 people to continue to evaluate Conrail's financial situation?

ANSWER: The Northeast Rail Service Act of 1981 requires USRA to evaluate Conrail's financial situation and its operations, and also to monitor the compliance of all parties with their responsibilities under NERSA. This includes the role of the Secretary of Transportation in the sale of Conrail.

SENATOR CHILES: Please provide workload data which supports this level of employment. The budget justification indicates that USRA would not have available over $236,000 in reimbursement from other federal agencies who are no longer using the USRA computer systems. As a result, it would seem that there is now a large excess capacity in USRA's computer. What is being done to scale back the computer cost to provide for USRA's workload? Are other agencies being solicited to use the USRA facility? Even if Conrail is not sold, can we not use GAO and the ICC to monitor Conrail and not provide a $3 million appropriation?

ANSWER: The Northeast Rail Service Act of 1981 requires that USRA monitor Conrail as well as the compliance of all parties with the various provisions of that act, which includes the

Secretary of Transportation's responsibilities concerning the sale of Conrail. As in the previous two years, USRA is not requesting an appropriation. If it should continue to be the judgment of the Congress that USRA's independence and specialized expertise should be sustained, then it is our estimate that a staff of 30 and an appropriation of $3 million is necessary to perform the minimum level of necessary activity. Despite excess computer capacity, use of our own machine is at the present time still the most cost effective means of meeting our needs. We have solicited the computer business of other federal agencies, but unlike previous years, we can no longer count on much success because of the age of our equipment. We project the possibility that during fiscal year 1986 other alternatives to owning our own main frame computer may more cost effectively meet our needs. We are conducting a study of our options at this time.

CONRAIL

QUESTIONS SUBMITTED BY SENATOR ANDREWS

SENATOR ANDREWS: Last year, Mr. Crane, for this Committee you described the best type of buyer for Conrail (pg. 449 of Report). You listed your priorities as:

- retaining Conrail as an Independent entity
- permitting maximum service coverage of industries and communities now served
- allowing retention of trackage, yards, shops and facilities
- permitting economically justified employment levels; and,
- continuing the high level of dedication of rank and file employees to build on Conrail's improvements.

Given Conrail's proposal for a public offering, I guess that you believe the proposed sale doesn't meet the criteria?

ANSWER: We believe that an independent Conrail can best serve the communities, shippers, and overall interests of our service territory. A sale to Norfolk Southern will not meet this and the other criteria I discussed in my testimony before the Committee. We believe that such a sale will substantially reduce competition and jeopardize Conrail's current position as an advocate for business development in the Northeast and the shipment of goods and bulk materials through the Eastern parts of New York, New Jersey, Philadelphia, and Baltimore. In addition to the potential loss of this business to these communities, there will be substantial force reductions, facility closings, track abandonments, and the potential loss of service in selected market centers resulting from the normal rationalization process following this type of parallel merger.

SENATOR ANDREWS: Has Conrail done an analysis on the competitive aspects of the Norfolk Southern and Conrail merger? What are your findings?

ANSWER: A general report has been recently completed by Conrail on the overall competitive situation and proposed divestiture of lines resulting from an acquisition by Norfolk Southern. This report is attached . A detailed diversion analysis was completed by Norfolk Southern in 1984 with Conrail's assistance in providing certain traffic information for the confidential use of Norfolk Southern's third-party consultant in Boston. The results of this study have not been furnished to Conrail or made public.

SENATOR ANDREWS: Isn't it reasonable to assume that when you fold one competitor in with another that there would be a reduction of service and that shippers would have fewer options to choose from?

ANSWER: Yes. Attachments 1-3 contain dozens of examples of the harm that shippers and consumers may perceive will result from the loss of such options.

ATTACHMENT 1

COMPETITION BETWEEN CONRAIL AND NS

The Department of Transportation proposes to sell Conrail to the Norfolk Southern Railroad. The sale is unnecessary -- Conrail is financially strong and its future is secure, as is. The sale is financially unjustifiable -- NS is paying $1.2 billion to purchase a company with $800 million in the bank, $500 million in profits last year, and $6 billion in assets. And the sale is anticompetitive -- necessitating a major restructuring of the Northeast-Midwest rail system to satisfy the Justice Department's objections. The restructuring itself presents grave difficulties, and the financially precarious regional carriers on whom the restructuring depends are unlikely to provide even a short-term answer to the adverse competitive impact of the merger. Moreover, the only reason for the restructuring is to recreate what exists already -- a competitively viable and financially successful Northeast-Midwest rail system.

In short, this is a transaction that cries out for reconsideration. Many things about it need to be reconsidered, primary among them whether this transaction is necessary and whether the rail system needs the kind of "security blanket" that DOT seems to believe it finds in Conrail's acquisition by NS. All the evidence is to the contrary, because the existing system -- for the first time in 30 years -- is working.

The evidence that it is working is everywhere. Between 1979 and 1983, Conrail's financial position improved by approximately $530 million, despite the severe recession which occurred during those years.[1] In marked contrast, Norfolk Southern's net income during the same period did not improve at all, even though it was hit less hard by the recession. Conrail is a proven financial success, and it has proven its ability to weather hard times as well.

The proposed merger is undesirable as well as unnecessary. It is undesirable, first and foremost, because in order to meet the Justice Department's concerns about its anticompetitive consequences, it is necessary to break up the rail system that has taken so much effort to design. Restructuring the Northeast-Midwest rail system has proven difficult before; restructuring efforts failed in the 50's, 60's and 70's until Conrail. That effort is about to begin again with the proposed sale of marginally profitable lines to a group of failing railroads in the vain hope that these mini-carriers will compete successfully with the Conrail/NS colossus.

In addition to unnecessary and undesirable, the merger of Conrail and NS is disadvantageous. It is disadvantageous to taxpayers, since it allows NS enormous tax advantages, a windfall based on the taxpayers' investment, and simultaneously deprives taxpayers of the upside potential of their investment. It is disadvantageous to state and local governments, since the consolidation of the two railroads will lead to reduced track, facilities, employment, wages, and taxes. It is disadvantageous to rail employees who will face job cutbacks, disruption, and the loss of their stock ownership plan. It is disadvantageous to other railroads, who will face the disproportionate market power of a mega-railroad that is the largest transportation company in the world. All of these matters need to be considered in detail. What follows is a discussion of the disadvantage to shippers and consumers that results from the anticompetitive consequences of the proposed Conrail-NS merger.

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[1] In 1984, Conrail earned an additional $500 million. Norfolk Southern's figures have not been officially reported.

The combined Conrail/Norfolk Southern system would control many economically important markets now served by two or more carriers. The combined system would enjoy more than 50% of the rail markets for chemicals, grain, metals, motor vehicles and equipment, and scrap. Even the Chessie System, the largest and most financially secure of the competing carriers, has warned that in the face of a Conrail/NS merger it would be forced to abandon thousands of miles of its system and substantially reduce the number of its employees. Other carriers would have to do the same. At that point, competition will have been reduced from three healthy, vigorous competitors, to one rich, powerful monopoly.

This reduction in competition would, of course, have its largest impact on shippers and consumers. There are several types of competition that currently benefit shippers and consumers, all of which would be eliminated by the sale of Conrail to the Norfolk Southern.

I. Parallel Line Competition

Parallel line competition exists when two or more carriers serve both the origin and the destination of a given movement. Customers benefit from this head-to-head, inter-railroad competition by playing each carrier against the other for rate reductions and service improvements. Traffic for which Conrail directly competes with the NS generated more than $50 million in rail revenues in 1984 for Conrail alone. This type of competition benefits shippers in Illinois, Indiana, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania and West Virginia. For example, one of the nation's largest steel companies moves over two million tons of ore from the Great Lakes to its plants in Ohio and West Virginia every year. Both Conrail and NS compete for this traffic from origin to destination. In 1981, the shipper asked both carriers to submit their best offers. Conrail's bid would have saved the customer over $3 million from the published tariff rate. The NS was awarded the business, nonetheless. Conrail was advised that the level of rates was the determining factor. In other words, parallel line competition saved the customer, in this example, well over $3 million per year. With a combined CR/NS system there would be no such competition.

II. Producer Competition between Conrail and Norfolk Southern

A second form of competition occurs when Conrail and Norfolk Southern compete at the origin of a movement for traffic destined to points served by only one of them. Shippers benefiting from this type of competition between Conrail and NS generated over $223 million in rail revenues in 1984. One can only speculate about the detriment to shippers and the increase in rail revenues that will accrue to a combined Conrail/NS when this competition is gone. One example conveys a sense of the magnitude, however. In Detroit, Conrail, Norfolk Southern, and the Grand Trunk Western Railroad compete directly for outbound motor vehicles from several different plants of a major automobile manufacturer. The traffic is worth approximately $40 million in annual rail revenues and is put up for bid (in whole or in part), every year or so. In the past few years, as part of its efforts to win this traffic, Conrail has taken no real rate increase, and its base rate has actually decreased. Since Grand Trunk has been unable to capture a significant share of the market, a Norfolk Southern/Conrail merger would give the merged system almost total control over the market. Control would manifest itself in rate increases and the loss of competition would be directly reflected in new car prices.

III. Competition for Traffic Destined to Points Served by Both Conrail and NS

Competition also benefits shippers whose traffic originates at points that are not served by both carriers but is destined to points served by both. Shippers benefiting from competition betweem Conrail and NS at destination generated approximately $244 million in rail revenue in 1984.

For example, coal-fired electric generating stations of a large Midwest power company can purchase coal from producers located in different parts of the country and served by different railroads. Conrail offers an attractive transportation rate for the low sulfur coal originating on its line in West Virginia to make it competitive with coal originating on the Chessie System and the Norfolk Southern. Moreover, Conrail built track into a new mine opened for this business in West Virginia and further lowered its transportation rate to help that mine compete for the power company's business. Many people benefited from Conrail's actions: the coal mine in West Virginia, which would not have existed without Conrail's help; the utility which pays less for its coal because it has companies competing for its business; and, of course, the consumers of electricity who pay less for it because Conrail and NS compete. If Conrail and Norfolk

Southern merge, rail rates will increase, the new railroad would not have been built, the new mine would have no market for its coal, and electricity would cost more.

In total, then, traffic benefiting from direct, inter-railroad competition at origin, destination, or both is substantial -- amounting to more than $500 million in rail revenue last year. The savings realized by that competition accrue to shippers and consumers.

IV. Source Competition Between Conrail and Norfolk Southern

Another form of competition that would be totally eliminated by a Conrail/Norfolk Southern merger is known as source competition. This kind of competition arises when two railroads serve different points where competing producers or shippers are located. In other words, Conrail promotes shippers located in its territory who compete with shippers located in Norfolk Southern territory for business in a common market. Conrail and Norfolk Southern compete because their customers compete.

Another example may show the effectiveness of this kind of competition. In order to ensure the continued viability of the Conrail-served Bethlehem Steel mills in the national steel market, Conrail, over the last three years, has reduced its rates considerably on intermill traffic. These repeated and substantial rate reductions stem from Conrail's desire to keep Bethlehem Steel competitive with other major steel producers, including U. S. Steel, which are served by other carriers such as the Norfolk Southern. It is unlikely that a combined Norfolk Southern/Conrail system, enjoying profitable NS traffic from other producers like U. S. Steel, would take similar action. In short, an independent Conrail is an advocate for its region and its shippers. Our fortunes are tied to theirs, and a great many people, on Conrail's system and off, benefit from our efforts on their behalf.

V. Loss of Conrail as an Innovative, Competitive Resource

The Northeast rail system would suffer by the loss of Conrail as a unique competitive resource -- a major innovative force in the rail industry. Conrail has been a leader in bringing the rail industry into the twentieth century by making it more competitive and responsive to shipper needs. This aspect of Conrail's marketing strategy and its effect on service and rate levels cannot be overstated. In 1980, Conrail led the fight for the Staggers Act and ever since has been aggressive in its efforts to implement the pricing freedoms it granted. In 1981, Conrail withdrew from the rate bureaus in which rates had been set collectively for over a hundred years. To this day, it remains the only railroad to have done so. In 1981, Conrail also began to challenge the old "equalized joint rate" system under which every route between two points, regardless of cost, efficiency, or circuity, was priced the same. Conrail has led the right to change this almost unbelievable, anticompetitive scheme by insisting upon the right of carriers to price independently and, therefore, competitively. Conrail currently leads the industry in developing computer technology to facilitate such independent pricing.

The loss of Conrail as an independent, innovative force affects shippers directly. For example, in 1984, in order to expand its export coal business and create an export market for high sulfur Pennsylvania coal, Conrail developed a program to blend the low sulfur coal from mines it serves in

West Virginia with the high sulfur coal from Pennsylvania. This blending results in coal of a quality demanded by the export market. Conrail lowered its rates on the West Virginia coal, and blends the two types of coal at its piers in Philadelphia. As a result, Conrail has created an entirely new market for Pennsylvania coal mines. If Conrail and NS merge, the combined system would have little incentive to protect the interests of the Pennsylvania coal mines and to create new markets for them. Coal exported at Hampton Roads, hauled by the NS from Kentucky and West Virginia, is so plentiful and lucrative as to make it unlikely for the combined system to lower any of its coal rates or make any particular effort to promote Pennsylvania coal.

VI. The "Quick Fix" Won't Work

In its analysis of the sale, the Department of Justice ignores most of its anticompetitive consequences. It does not even address source competition or Conrail's unique competitive role. It addresses only the loss of direct, inter-railroad competition. Even this inexplicably restricted study was conducted in a very odd way. In fact, Justice's method of analyzing the consequences of the merger is unprecedented. It ignored the real movements of traffic, which occur between origins and destinations, in favor of an analysis of competition within counties, an analysis that is largely meaningless, since rail traffic does not generally move within counties.

Even from this extraordinarily limited study, Justice concluded that "the merger would have a significant adverse effect on competition," violating "both Clayton Act and Interstate Commerce Act merger review standards." The

Department, therefore, predicated its approval of the merger on a scheme that would ameliorate the loss of some aspects of parallel line competition only. The Department's "quick fix" is deficient in almost every aspect.

First, as noted, the Department's fix does not address the loss of Conrail as an innovator in the rail industry. Surely, there can be no remedy for such a loss. Conrail's actions in this regard have been controversial, but they have succeeded in the marketplace, and that success has begun to persuade other carriers to follow. The loss of Conrail as an independent force in an industry where entry barriers are high and with a history of collusive behavior would be damaging not only to the future of the industry but also to the shippers served by it. Second, since the Department of Justice did not acknowledge the existence of source competition, it did not suggest a way to ameliorate its loss.

On the other hand, the parallel line competitive losses discussed above are so great the Department was compelled to address them. In its letter of January 29, 1985 to the Secretary of Transportation, it stated that it would oppose the merger unless

> competitive problems are remedied through a prior or concurrent divesture of ... Conrail and/or Norfolk Southern rail assets along the designated corridor [the rail corridor running between Buffalo and Pittsburgh in the east and St. Louis and Chicago in the west] to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide long-term, viable, and competitive rail service to locations along the corridor. (emphasis added.)

This proposal is fundamentally flawed. The acquiring regional carriers would conduct low density operations on marginally profitable lines, with additional competitive restraints negotiated by DOT and NS. Meanwhile, the

Conrail/NS system would carry high density traffic on high quality lines, free of competitive limitation. The acquiring carriers would incur higher unit costs and could not, at any point provide the long-term, viable, and competitive rail service mandated by the Department of Justice.

It further strains credulity to rely, as NS and the Department of Transportation now suggest, on the Guilford Railroads and the Pittsburgh & Lake Erie Railroad to provide this competitive rail service. The Pittsburgh and Lake Erie has been in precarious financial health for many years. From 1982-1984, it lost $50 million. It is scarcely surviving now, and the acquisition of low-density, marginally profitable lines, with their attendant costs, is unlikely to reverse its steady decline. Guilford has recently acquired one bankrupt and two failing railroads, and is even now struggling to integrate and operate them. Only two of Guilford's three rail subsidiaries report their profits and losses. Between them, they lost $38 million in the last two years. The railroad survives only because of the assistance of the U. S. and New York state governments. By contrast, Conrail and NS had a combined profit of nearly $1 billion in 1984 and operating revenues of nearly $7 billion. An unequal contest, to say the least.

Surely, this is not what the Justice Department intended. Just as surely, it is impossible to conclude that these two failing railroads could provide effective, long-term competition against a merged Conrail/Norfolk Southern system.

In sum, the scheme proposed by the government will not work. As with most attempts to fix things that are not broken, the national rail system will be substantially worse off than when the process began. The government's proposal spells the end of the Northeast-Midwest rail system that Congress worked so long to create and that has already demanded so much sacrifice from shippers, consumers, employees, and taxpayers.

ATTACHMENT 2

COMPETITIVE RAIL SERVICE OFFERED BY CONRAIL BENEFITS OHIO SHIPPERS.

The proposal to sell Conrail to the Norfolk Southern Corporation comes at a time when, for the first time in thirty years, the Northeast/Midwest rail system is working. Conrail has proven itself a financial success. It has $800 million in the bank, $6 billion in assets and, in 1984, made a profit of over $500 million. Shippers across the nation have benefited from Conrail's competitive pricing and innovative marketing. Yet, the Department of Transportation proposes to sell this railroad, which has achieved success few thought possible, to the Norfolk Southern for $1.2 billion - a price that has been likened to a fire sale. Taxpayers, labor, Conrail's customers and Conrail itself are proud of its success. But they are now faced with the reality of transferring the benefits of that success to an entity in no way responsible for it.

Moreover, the sale of Conrail to the Norfolk Southern is destined to have a negative impact, in dollars and cents, on consumers of rail freight service. This negative impact stems from the severe anticompetitive consequences of a sale of Conrail to NS. Conrail serves literally thousands of rail markets in direct competition with the Norfolk Southern. This competition will be eliminated as will its benefits - rate reductions and service improvements.

The divestitures proposed by DOT and NS to remedy these anticompetitive effects cannot do the job. Acquisition, rehabilitation and maintenance of the divested lines will require more than $250 million. But between them, the acquiring railroads -- the Pittsburgh & Lake Erie and Guilford Transportation Industries -- lost $75 million in the last three years. In addition, the lines to be acquired are low density operations, unlikely to yield traffic sufficient to cover even the costs of acquiring and fixing them up. In sum, the anticompetitive effects of this transaction cannot be "fixed." And the benefits of that competition to shippers and consumers cannot be regained.

In Ohio, Conrail and NS intersect more than in any other state, resulting in particularly vigorous competition between them. In many ways, then, the anticompetitive consequences of a Conrail/NS merger will be suffered most greatly in Ohio. In order to understand what these losses will be, it is first necessary to consider how competition currently benefits Ohio industries. It takes several forms.

First, there is parallel line competition where Conrail and NS serve both the origin and destination for particular movements. This direct inter-railroad competition benefits shippers who play each railroad against the other for rate reductions and service improvements. Second, competition exists at origin between Conrail and NS for traffic destined to points not served by both carriers. Competition also exists for traffic destined to points served by both carriers but originating at points not common to both. Conrail further competes against the NS when producers located on its line compete with producers located on the NS in a common national market. In other words, Conrail and NS compete because their customers compete. If Conrail and NS were to merge, Ohio, along with the rest of the states in Conrail's territory, would lose Conrail as an advocate for industries located there.

Less tangibly, but just as importantly, shippers and consumers nationwide will lose the benefits they have gained from having Conrail as an independent, procompetitive force in the rail industry. Since its inception, Conrail has led the industry into the twentieth century, pioneering deregulation and competitive, independent pricing. In 1980, Conrail led the fight for the Staggers Act which freed railroads to compete more effectively. In 1981, Conrail withdrew from the rate bureaus in which rates had been set collectively for over a hundred years. To this day, it remains the only railroad to have done so. Conrail also challenged the "equalized joint rate" system under which every route between two points, regardless of cost, efficiency, or circuity, was priced the same. Conrail has led the fight to change this anticompetitive scheme by insisting upon the right of carriers to price independently and, therefore, competitively.

The Department of Transportation proposal will eliminate virtually all of the benefits currently derived from competition between Conrail and Norfolk Southern. The proposal also undermines much of the progress Conrail has made in its efforts to enhance the competition that the Staggers Act sought to bring to the rail industry. The legislation DOT has proposed would have Congress authorize a transaction that requires the merged system to "maintain or re-establish" certain joint rates and through routes, apparently ensuring the return of the antiquated, anticompetitive equalized joint rate system. The loss of competition and the return of regulation can mean only one thing to Ohio shippers -- a real loss in dollars and cents. It is not surprising, then, that the Toledo, Ohio Blade called upon Ohio's elected officials in Congress to consider the "antitrust and competitive problems involved" in the sale of Conrail to NS and referred to the sale as "bad news for Toledo and northwest Ohio." Quoted in a Willoughby, OH editorial entitled "Conrail Sale Won't Fly," Congressional representatives fear that a sale to NS would "seriously damage the competitive position" of Ohio business and "cost [the] community thousands of jobs."

Ohio Businesses Reap the Benefits of Parallel Line Competition.

1. Conrail and NS compete head-on for traffic they both move from origin to destination. This, of course, means lower rates and improved service for the customer. For example, Wheeling Pittsburgh Steel uses fluxing stone at its Steubenville, OH, Mingo Junction, OH, and Follansbee, WV plants which are served by both Conrail and NS. The stone originates at Carey, OH which is also served by Conrail and NS, who bid for it annually. To win this business, Conrail reduced its rates in order to save Wheeling Pittsburgh over $500,000 annually. This makes Wheeling Pittsburgh more competitive in its markets, assures that Ohio plants are a cost effective part of the Wheeling Pittsburgh system, and helps the Carey quarry to retain an important part of its business.

2. LTV moves iron and steel between its mills in Canton and Massillon, OH. Both facilities are served by Conrail, NS, and, through switching, by Chessie. This intermill traffic was put up for bid in 1983. NS won the bid by reducing its rate to yield an approximate savings of $800,000 annually to the customer. If Conrail and NS were to merge, these plants would be directly served only by the merged system, which would have little incentive to make rate reductions of this magnitude. It is not surprising that LTV Steel has warned DOT that a sale of Conrail to NS would "reduce ... competition below a tolerable level."

3. Conrail, NS, and CSX compete for intermodal movements of food products and liquor originating at Cincinnati for the accounts of Seagram and Hiram-Walker and destined to Buffalo, NY. In 1984, Conrail offered 1½ to 2 day service and rate reductions worth approximately $50,000 to the customer. The NS offered 4 day service at rates unknown to Conrail, and won the

business. Its rate reductions must be so significant as to outweigh the benefits of Conrail's reduced transit time. Competition is responsible for these benefits and the customer is the winner.

4. U. S. Steel's intermill semi-finished steel and scrap traffic moves from its facility in Lorain, OH to its mills in Chicago, and Joliet, IL and Gary, IN. Conrail, CSX, and NS compete for this traffic. Until 1985, the intermill traffic was handled by the NS under contract. In 1985, Conrail submitted a bid for this traffic and won it. The customer gained a full 24 hour savings in transit time, and receives special pick-up service en route to destination and rate savings worth approximately $300,000 annually. Conrail's successful offer was made in response to direct competition from the NS. Not surprisingly, U. S. Steel has asked the Department of Transportation to retain "intramodal competition... in the railroad industry" and "continu[e] Conrail as an independent carrier."

5. Wheeling Pittsburgh Steel moves approximately two million gross tons of ore via the Great Lake Ports to its plants at Mingo Junction, OH and Follansbee, WV. The ore can move from the Great Lakes via either Conrail or NS. In April, 1981 the NS, in an attempt to capture this business, reduced the iron ore rates from its Great Lake facility at Huron, OH to these Wheeling Pittsburgh plants. In response, Conrail offered a price via Cleveland and Ashtabula Harbor below the revised NS rate. Conrail also proposed to give the steel company an additional allowance on all the Great Lake ore shipped via Conrail. This proposal would have saved Wheeling Pittsburgh over $3 million annually from the published tariff rate. Nonetheless, Wheeling Pittsburgh signed a four year contract with the NS. Conrail was advised that the level of rates was the determining factor in awarding the contract. One can only speculate as to what the rate level would be if Conrail and NS no longer competed.

Competition Between Conrail and NS at the Origin Reduces Rates and Improves Service.

1. Toledo, served by Conrail, CSX, Grand Trunk Western, and NS, is a hub for traffic moving in containers on rail cars and destined for export. Conrail offers service from Toledo to its ports at Boston, New York, Philadelphia, and Baltimore; Norfolk Southern offers service to its Norfolk port. Because of superior service and rates, including gaining the cooperation of the steamship lines involved, Conrail won the business. With Conrail's help, Toledo is growing as a hub for export traffic. A combined Conrail/NS merger would lessen competition for export traffic, raise export rates from Toledo, and possibly stall Toledo's progress.

2. Lima, OH is served by DT&I, NS, CSX, and Conrail. Sohio moves chemicals and petroleum products from Lima to Odessa, TX. Conrail bid for this Sohio traffic and won. Conrail's rate absorbs the $492 per car in switching charge that is assessed by NS as its price for granting Conrail access to the Sohio plants that NS and CSX serve directly. The contract for this traffic was awarded on the basis of Conrail's ability to offer a competitive rate.

Competition at Destination Benefits Ohio Shippers.

1. B. F. Goodrich in Cleveland receives shipments of tires and rubber from Texas and Louisiana. NS and Conrail compete vigorously for the final leg of the movement. The NS has offered rate reductions of up to $200 per car on shipments routed over its lines. This rate reduction captured the traffic. Without this competition between Conrail and NS, the reduction would not have been made.

2. Quaker Oats ships soybean flour, meal and food products from Cedar Rapids, IA (served by the Chicago & Northwestern

RR) to Marion, OH (served by Conrail and, through switching, by NS and CSX) and to other destinations served only by Conrail. Conrail, NS, and CSX compete vigorously for this traffic, which is put up for bid by the customer periodically. Conrail reduced its rates to Marion and to the other destinations it serves, thus according Quaker Oats the benefits of competition at all these points. The resulting savings are significant. A Conrail/NS merger would not only reduce competition at Marion but could thus reverberate at numerous Quaker Oats' facilities.

3. The Cleveland Electric Illuminating Company (CEI) moves 200,000 tons of coal annually from Pontiki Mine in Kentucky to CEI's Lake Shore plant in Cleveland, OH. The Pontiki Mine is located on the NS. The Lake Shore plant is located on Conrail, but is open to switching by the NS.

The coal from Pontiki can move via one of two available routes: 1) NS to Columbus, then Conrail to Cleveland; or 2) NS direct to Cleveland, with actual delivery performed by Conrail. Prior to April 1982, the rate via both routes was the same. In April 1982, the NS reduced the rate via its single line route by 53¢ per net ton. Conrail responded by offering CEI savings of over $200,000 annually from the tariff rates. Yet, NS acquired the business, apparently cutting its rates even lower.

Source Competition Benefits Ohio Producers.

A dramatic example of how Conrail works for industries located in Ohio so that they can compete with producers on the NS is the movement of coal from Peabody Coal's Sunnyhill mine in Perry County, OH destined to Consumers Power in Michigan. Until late 1983, Consumers Power received coal from the Sunnyhill mine, which is served by Conrail. In 1983, Consumers Power was faced with a need to meet new environmental regulations requiring it to convert to lower sulfur coal than that available

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from the Sunnyhill mine. If Consumers Power ceased to use the Sunnyhill coal, the mine would have closed, putting 500 Ohio miners out of work.

In an effort to save Ohio jobs and sustain Peabody Coal's market, Conrail joined community, labor, management, and government leaders in urging Michigan to grant a three year variance so that Consumers Power might continue to burn coal originating at Sunnyhill mine. Conrail reduced its rates significantly on this traffic, making Sunnyhill coal more attractive to Consumers Power. The variance was granted (thanks in part to Conrail's help), the mine remained open, the transportation rate was reduced, and Michigan and Ohio reaped the benefits. Several key Ohio officials, including U. S. Senator John Glenn, applauded Conrail's effort. A combined Conrail/NS would not likely have taken similar action, since the NS, with a long haul from its low sulfur coal mines in Kentucky, would not have forfeited this lucrative Kentucky coal traffic in favor of the Ohio coal traffic.

Conclusion

Selling Conrail to the Norfolk Southern will mean a substantial reduction in competition and the loss of Conrail as an independent advocate for industries in its region. Shippers in Ohio know that this loss means higher transportation rates and higher consumer prices.

All this to what end? To fix a system that is not broken. The Northeast-Midwest rail system works; it has proven itself even during hard economic times. Shippers and consumers in Ohio, as elsewhere, rely on its continuation.

ATTACHMENT 3

COMPETITIVE RAIL SERVICE OFFERED BY CONRAIL BENEFITS MICHIGAN SHIPPERS

The Department of Transportation seeks Congressional approval to sell Conrail to the Norfolk Southern Railroad. The sale is unnecessary -- Conrail is financially strong and its future is secure, as is. The sale is financially unjustifiable -- NS is paying $1.2 billion to purchase a company with $800 million in the bank, $500 million in profits last year, and $6 billion in assets. And the exact contours of the proposed transaction are unknown. There is no operating information, no consolidated financial data, and no proposed marketing plan. What is known is that the sale is highly anticompetitive -- necessitating a major restructuring of the Northeast-Midwest rail system to satisfy the Justice Department's objections. The actual restructuring plan is also unknown, but it is certain that the financially precarious regional carriers on whom the restructuring depends are unlikely to meet the Justice Department's criteria for long-term, economically viable competition or to provide even a short-term answer to the adverse competitive impact of the merger. Moreover, the only reason for the restructuring is to recreate what exists already -- a competitively viable and financially successful Northeast-Midwest rail system.

The current system -- characterized by a high degree of rail competition -- has provided Michigan shippers, like others on the Conrail system, high quality service, and reduced transportation charges. These benefits will be lost if Norfolk Southern acquires Conrail. Many of the service and rate benefits shippers enjoy today can be traced directly to marketing and service innovations pioneered by Conrail. Others are a direct response to competition between Conrail and Norfolk Southern. If the NS acquires Conrail, both of these important competitive benefits would be eliminated.

Most importantly, many shippers would have only one serving carrier. While the Justice Department's proposed divestiture remedy was intended to correct at least some of those situations, the actual DOT-NS divestiture plan fails to meet Justice's explicit requirements. This failure is especially critical in Michigan since the Justice Department identified two Michigan counties -- Wayne and Washtenaw -- where the anticompetitive effects of the merger would be most severe, and required that new competitive rail service be introduced into those counties before the merger could be consummated. In spite of this explicit requirement, the proposed DOT-NS divestiture plan does not provide for Wayne and Washtenaw counties; neither of the regional carriers who are to acquire Conrail or NS lines has been granted lines into Wayne or Washtenaw counties. Shippers and receivers in those counties will lose the benefits of competition between Conrail and NS and are simply left to pay the consequences.

These consequences mean dollars and cents to shippers and consumers and must be fully considered as Congress debates the wisdom and propriety of the proposed sale. What follows is an explanation of how users of rail service -- both shippers and receivers -- in Michigan have benefited from innovative Conrail efforts on their behalf and from competition between Conrail and NS, and of how those benefits will be eliminated if NS is permitted to acquire Conrail.

Many types of competition benefit Michigan shippers and consumers. As discussed below, these include parallel line competition (when two or more carriers serve both the origin and the destination of a given movement), competition at the origin of a movement, competition at destination, and the competition that results when Conrail acts as an advocate for its region and its shippers, helping them to remain competitive and to expand their markets. The dollars that this competition saves shippers are impressive. For example, from 1982-84, Conrail rate reductions, service innovations, and shipper advocacy efforts saved both Chrysler Corporation and General Motors $9-10 million and saved Detroit Edison $3.7 million. Over and above these savings are benefits accrued by shippers and consumers all over the nation as a result of Conrail's role as a major innovative force, leading the rail industry in its efforts to achieve the pro-competitive goals of the Staggers Act, and advocating the needs of its region and its shippers. The Justice Department's analysis of a Conrail/NS merger did not even address most of these competitive losses, focusing solely on parallel line competition. Even then, Justice concluded that the merger would have "severe anticompetitive consequences." In fact, every form of competition would be reduced or eliminated by a Conrail/NS merger. As explained below, this will directly and severely harm shippers in Michigan, as elsewhere.

I. Parallel Line Competition.

Conrail and Norfolk Southern compete head-on for traffic that they both move from origin to destination. This, of course, means lower rates and improved service for the customer. For example, to satisfy the needs of Chrysler Corporation, Conrail established a train that runs between a number of major Chrysler parts plants in Michigan, stopping at each to pick up carloads of auto parts and move them to assembly plants in the St. Louis area in one day. This service competes with service offered by the Norfolk Southern, but saves Chrysler 4-5 days in service time. The rates are the same as before, but Chrysler now saves $1 million a year in reduced inventory costs alone. Additional savings in the form of increased reliability and more flexible service (to help with "just in time" manufacturing needs) also result. On February 15, 1985, Conrail received special commendation from the customer in recognition of the benefits it has and will continue to derive from the new service. NS could have offered similar benefits, but it didn't. Without an independent, innovative Conrail, Chrysler would not have the benefit of the underlying competition, or of benefits that result from that competition. Chrysler buyers will ultimately pay the price.

II. Competition Between Conrail and Norfolk Southern at Traffic Origins Served by Both.

Conrail competes directly with NS and the Grand Trunk Western RR for Chrysler vehicles moving from Detroit to points in the South served by the Norfolk Southern. Conrail negotiated a contract with Chrysler which reduced rates for this traffic and improved the quality of service performed. Under the contract, Conrail refunds a percentage of the rate for every car shipped via Conrail to Cincinnati for interchange with the Norfolk Southern. Despite the fact NS had the advantage of being able to provide single-line service over the entire route, Conrail's reduced rates and improved service were so attractive that it won the business. Chrysler benefits from this direct competition at origin by playing each carrier against the other for reduced rates and improved service. Chrysler customers benefit, in turn.

III. Competition Benefits Michigan Receivers of Freight.

Conrail competes with NS for traffic destined to Ford Motor's Steel Mill located at River Rouge, Michigan. The mill is accessible by barge. Conrail and Chessie have transloading facilities at Toledo, and Norfolk Southern has one at Sandusky. The mine that provides coal for the mill is on the Norfolk Southern. Thus, NS controls the origin, and can carry the coal all the way to the mill or to its own transloading facility. Against these cost and competitive advantages, Conrail fought hard for a share of the business and succeeded in getting Ford to ask NS to turn the traffic over to Conrail at Columbus, Ohio, from where it is carried to Conrail transloading facilities. Conrail offered a combination of good service and rates that save Ford more than $600,000 per year in order to win the business. The existing contract will be the last one providing Ford these benefits if Conrail ceases to be an independent carrier.

IV. Source Competition Benefits Michigan Receivers as Well as Producers Originating Traffic in Conrail Territory.

Everyone recognizes that if the Conrail/NS merger occurs the level of competition between points now served by Conrail and NS will decline. What is less widely understood is that Conrail is a major force in assuring effective "source competition" which occurs when two railroads serve different points at which competing shippers are located. Conrail is a pioneer at developing and expanding markets of the shippers located on its line. This not only benefits Conrail shippers who have access to more customers than they otherwise would have, but also benefits the receivers of the freight who are able to buy the goods they need from more alternative sources and receive the benefit of competition among those sources. A few examples may make this idea clearer.

1. In an effort to secure Detroit Edison's business, Conrail offered an attractive transportation rate for low sulfur coal originating on its line in West Virginia. In fact, Conrail built track into a new Bethlehem Steel mine located in West Virginia and reduced its rates specifically to create a market for this coal at Detroit Edison. The reduced rate lowered Detroit Edison's delivered price of coal relative to the delivered price of coal carried from Norfolk Southern origins. Equally important, it permitted the Conrail served mine to compete against mines originating coal on the Norfolk Southern. As a result of the competition fostered by Conrail, Detroit Edison and the Michigan communities that depend on

Detroit Edison for low-cost power saved $3.7 million a year. Had Conrail and the Norfolk Southern been merged, the rates would not have been reduced, the new mine would not have been built, and the consumers of power in the Detroit area would have paid the price.

2. Coal mines located on Conrail compete with coal mines located on other rail lines, including Chessie and NS. One customer for whom they compete is Consumers Power in Michigan. Consumers Power has a water-served facility at Muskegon. Railroads carry the coal from the mines to transloading facilities for subsequent barge movement. To compete, on behalf of the mines located on its line against the Chessie-served mines, Conrail lowered its rate to its Ashtabula, Ohio, transloading facility by 30%. This reduction translated directly into a reduction in the delivered price of coal. Although Norfolk Southern could have served Consumers Power via its Sandusky, Ohio, transloading facility, therefore helping to secure new business for the coal mines located on its lines, it did not.

V. Conrail Plays a Unique, Pro-Competitive Role in the Industry, Benefiting Shippers and Consumers Alike.

The Northeast-Midwest rail system would suffer by the loss of an independent Conrail, since Conrail has been a unique competitive resource -- a major innovative force in the rail industry. Conrail has been a leader in bringing the rail industry into the twentieth century by making it more competitive and responsive to shipper needs. This aspect of Conrail's marketing strategy and its effect on service and rate levels cannot be overstated. In 1980, Conrail led the fight for the Staggers Act which freed railroads to compete more effectively. In 1981, Conrail withdrew from the rate bureaus in which rates had been set collectively for over a hundred years. To this day, it remains the only railroad to have done so. In 1981, Conrail began to challenge the "equalized joint rate" system under which every route between two points, regardless of cost, efficiency, or circuity, was priced the same. Conrail has led the fight to change this anticompetitive scheme by insisting upon the right of carriers to price independently and, therefore, competitively.

The loss of Conrail as an innovative force in the rail industry translates into a real loss in dollars and cents to Michigan shippers. Conrail has been an advocate for industries in its region and has not only lowered its rates during hard economic times to sustain its customers' markets but has reached beyond to literally create new markets for its customers. Again, some examples illustrate the importance of this activity for Michigan.

1. For those shippers not located on the railroad, as well as for those located on rail but requiring special distribution services, Conrail has developed new programs to save customers money and attract new business for them. For example, Conrail established terminals at Jackson and Hamtramck, Michigan, which permit steel to move into these terminals by rail and be transloaded onto Conrail motor carriage for distribution within the local areas. This type of innovation allowed companies not served by rail to secure the benefits of rail service without making the investment necessary to locate on a rail line. Thus, auto and steel companies gain the economies of rail transportation while at the same time securing levels of service formerly provided only by trucks.

2. Conrail's long-term viability depends on the well being of the industries it serves. Thus, in 1982-83, when the steel industry was trying to find new ways to compete with foreign steel producers in a contracting domestic market, Conrail pitched in. Conrail designed contract rates to move steel and steel products which permitted the steel mills to open new markets, and keep facilities in production. Contract rate reductions of 20 to 30 percent were not uncommon. Much

of the steel was used in the auto industry, also fighting to make its products attractive in the face of foreign competition.

3. During the 1982 recession, which particularly hit the steel industry, Conrail took the lead in holding rates on iron and steel 15 to 20 percent below the level that would have prevailed had those rates been adjusted just to reflect increases in rail costs. Similarly, between 1980 and 1982, Conrail held rates on auto and auto parts movements down 8 percent below the level dictated by increased rail costs. In both instances, Conrail took these rate actions to help its customers.

4. While Conrail was acting to keep U.S. steel producers competitive, Norfolk Southern relied on the old scale of rates and chose not to offer rate reductions. Only now, several years later, is the Norfolk Southern getting around to matching Conrail's rates. The competitive pattern is remarkably consistent. Conrail provides innovative service and rate initiatives, and Norfolk Southern reacts after the Conrail innovation proves to be successful in attracting traffic.

5. Conrail's innovative service means that for the first time shippers are diverting time-sensitive traffic from truck to rail. Conrail and the Grand Trunk together developed and pioneered mini-train service for General Motors in Lansing, Michigan. The railroads provide shuttle service between General Motor's plants located no more than 1½ miles apart. Normally, hauls over distances of 1½ miles were thought to be the exclusive preserve of motor carriers. In this case, however, Conrail was able to develop service that was both more efficient and more economical than the service truckers had been providing between the same points.

In sum, competition between Conrail and NS, and competition created and advocated by an independent Conrail, benefit Michigan shippers and consumers substantially. These benefits will be eliminated if Conrail is sold to the NS. The Department of Justice plan, besides being unlikely to succeed, would, at best, ameliorate only the loss of parallel line competition. There is no plan to ameliorate the loss of the other forms of competition which the examples above merely illustrate. The loss of Conrail as an independent advocate for shippers located in its territory cannot be remedied. Shippers and consumers in Michigan know that this loss means higher transportation rates and higher consumer prices.

All this to what end? To fix a system that is not broken. The Northeast-Midwest rail system works; it has proven itself even during hard economic times. Shippers and consumers in Michigan, as elsewhere, rely on its continuation.

Moreover, there is no reason to deny shippers these options. There is no evidence -- nor even an assertion -- that any of the existing Conrail lines is not economically viable in the short or long run. Thus, absent the proposed merger, the competing lines would remain. Nor is there any evidence that the proposed Conrail/NS merger will create efficiencies that might justify a lessening of these options. To the contrary, the Justice Department's January 29 letter concludes that NS' efficiency predictions are "overstated."

Thus, the record contains neither economic nor efficiency evidence warranting the proposed merger. The examples in the attached analyses, however, provide persuasive evidence that the merger is contrary to the letter and spirit of the national transportation policy and the interests of shippers and consumers in denying them desirable route, rate, and service options.

SENATOR ANDREWS: I have recently been contacted by shippers from North Dakota (mill and elevator operators and potato farmers) that are concerned about maintaining competition. Has Conrail analyzed the impacts of the proposed merger on those shippers outside of the Northeast? What were the results of that analysis?

ANSWER: Conrail has looked at the impact on shippers and receivers located in States outside of the Northeast. Conrail does not, however, have access to Norfolk Southern traffic data and therefore the analysis understates the impacts.

Using 1981 data, Conrail estimated that a combined Norfolk Southern - Conrail system would have increased market strength on rail freight moving to and from 26 states located either west of the Mississippi River, or south of the Ohio-Potomac Rivers.

Based on this limited review, NS/CR would be able to divert more than 190,000 carloads away from other railroad routes.

SENATOR ANDREWS: From Conrail's analysis are you able to conclude that Guilford Industries and the Pittsburgh & Lake Erie (P&LE) will be viable competition for the combined Norfolk Southern/Conrail?

ANSWER: Very little is known about DOT's proposed divestiture plan. Marketing, operating, and financial plans and projections needed to analyze the proposed divestitures are absent from the public record. From the information that is available about the lines to be divested, and the carriers who are to acquire them, the analysis performed by Conrail (see Attachment 7) demonstrates that neither Guilford nor P&LE will be a viable competitor to the combined Conrail/NS system in the short or long run. The lines that NS and DOT propose to divest to Guilford and P&LE are lines whose acquisition, rehabilitation, and maintenance will require tens of millions of dollars. Yet Guilford and P&LE between them lost $75 million over the last three years. There is no available information indicating how these railroads will fund the needed work.

Traffic density on the divested lines is low. In many cases, the lines carry less than one-twentieth of the traffic carried by competing lines retained by Conrail and NS. No estimates of the ability of Guilford and P&LE to attract new traffic have been provided; the fact is that the merged Conrail/NS will likely divert traffic from P&LE and Guilford.

The Conrail analysis makes clear that revenues from the traffic likely to be carried on the divested lines will not even cover the cost of their rehabilitation and maintenance.

It is also instructive to compare the Guilford and P&LE systems with their proposed principal competitor: the combined Conrail/NS. Through divestiture, NS would be ridding itself of unprofitable, low density lines, saddling its smaller competitors with lines needing substantial rehabilitation and maintenance, and with few prospects for traffic. One could easily have imagined NS demanding that it be permitted to divest or abandon these lines as a condition of acquiring Conrail. Instead, NS is being permitted to merge the best of NS with the best of Conrail, ridding the system of its least desirable pieces. The result of this process will be a Conrail/NS system more than ten times the combined size of Guilford and P&LE, with nearly twenty times their combined revenues.

The Justice Department was apparently not included in the negotiations leading to the development of this plan. Nor has a complete divestiture plan,including the price to be paid for the properties and evidence of the financing been submitted to the Department of Justice. Yet Justice review and approval of the plan -- to determine whether it will result in"long-term, viable, and competitive" rail service -- is an absolute prerequisite of Justice Department approval of the Conrail/NS merger. Moreover, no operating or marketing plans have been made available to the Department or the public by either divestiture carrier, nor have financial pro formas, acquisition price information, or any information regarding the source of funding for Guilford or P&LE's acquisition, rehabilitation, or maintenance. Congress' consideration of the authorizing legislation, at a minimum, ought to await the Justice Department's review, since the Department of Justice concluded that absent such divestitures the merger would violate the standards of the Clayton and Interstate Commerce Acts.

COMPETITION

SENATOR ANDREWS: It has been said that the Justice Department understated the anti-competitive aspects of the proposed merger. Do you agree?

ANSWER: The sale of Conrail to the Norfolk Southern Corporation is one of the most important transactions in transportation history. It will create the largest transportation company in the country and will have a profound impact on the nation's most fundamental transportation and competition policies. For this reason, the transaction requires careful and thorough scrutiny. In fact, however, unprecedentedly little scrutiny has been accorded it.

Conrail's analyses of the potential impact of the merger begin with the Justice Department's conclusion that the proposed sale would have a "significant adverse effect on competition," and then demonstrate that this conclusion was based on a limited and incomplete analysis that significantly understated the number and breadth of the transportation markets that would be affected by the proposed merger. As former Assistant Attorney General Thomas E. Kauper informed the Senate Judiciary Committee, the Department's analysis seemed to focus on only those anti-competitive consequences of the merger that could -- at least theoretically -- be remedied. (See Attachment 5.) In fact, according to Prof. Kauper, the entire process followed by the Justice Department in this case "raises obvious questions as to the course, nature, and scope of the investigation, analysis, and negotiation employed."

Similarly, former Assistant Attorney General Donald I. Baker, in the April 22, 1985 National Law Journal (Attachment 6) says the process followed by the Justice Department in the Conrail/NS matter "is very much at odds" with its recent handling of other mergers and was "striking" in its "limited and informal nature."

The Justice Department analysis considered only parallel line competition -- traffic for which Conrail directly competes with NS in Illinois, Indiana, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, and West Virginia, and which generated, according to Justice Department findings, more than half a billion dollars in rail revenue in 1984. The Justice Department's conclusion -- that the merger would have a serious effect on competition and violate both Clayton and Interstate Commerce Act merger standards -- was based solely on its analysis of this traffic.

The Justice Department's analysis, contained in a January 29, 1985 letter to DOT, failed even to mention other forms of Conrail/NS competition -- at origin, at destination, and in national markets -- whose elimination would cause the greatest harm to shippers and consumers. As the attached analyses show, Conrail/NS competition in these categories affected traffic generating another $500 million in rail revenues to Conrail and NS, and affects markets all over the United States, not just in Conrail or NS service territories.

The divestiture remedy proposed by DOT and NS does not attempt to remedy the loss of this competition. Moreover, as the enclosed divestiture analysis (Attachment 7) makes clear, the DOT/NS divestiture plan will not accomplish even its limited goal of restoring the parallel line competition that would be lost if the proposed merger were consummated.

Finally, the Justice Department failed to acknowledge its own merger guidelines, which stress that the Department is "more likely" to challenge a merger "if the firm to be acquired has been an unusually disruptive and competitive influence in the market." Conrail is exactly that sort of unique competitive resource. Attachment 8 contains material Conrail prepared at the request of the Senate Committee on the Judiciary that demonstrates the importance of Conrail's role in that regard.

ATTACHMENT 5

MEMORANDUM ON THE PROPOSED SALE OF CONRAIL TO THE NORFOLK SOUTHERN CORPORATION

My name is Thomas E. Kauper; I am Henry M. Butzel Professor of Law at the University of Michigan School of Law. Before joining the faculty at the University, I was an antitrust attorney. I served as Assistant Attorney General in the Antitrust Division of the Department of Justice from July, 1972 through July, 1976. This memorandum highlights my concerns with both the substance and the procedure of the proposed sale of Conrail to the Norfolk Southern Corporation.

The proposed sale of Conrail to the Norfolk Southern Corporation is of great public importance, reducing the number of major rail carriers in the East from three to two, and thus further reducing competition in an already highly concentrated industry. Accordingly, the competitive effects of, and the justification for, the merger must be scrutinized carefully. I question, however, whether such careful scrutiny has yet occurred. Moreover, by virtue of a highly unusual legislative proposal to grant future immunity to the transaction from antitrust and other laws, such scrutiny likely will never be paid. To permit a merger of this magnitude to be consummated absent a full prior hearing is, in my view, bad public policy. To minimize it from future scrutiny as well would create an antitrust precedent that is profoundly troubling.

My concerns may be loosely placed in three categories: (1) the limitations of the Department of Justice review; (2) the risks of immunity; and (3) the lack of public input.

First, at the behest of the Department of Transportation, the Department of Justice issued an advisory opinion concerning the measures necessary to "fix" the anticompetitive consequences of the proposed sale before its consummation. It would thus appear that Justice has engaged in negotiations with Norfolk Southern to make the proposal work by fixing its anticompetitive effects before the fact. This fix was based on what can only be characterized as a limited study of certain aspects, but apparently not others, of the transaction, and without opportunity for either public input or judicial review.

Second, because of the immunity which is proposed to be accorded to the transaction, there is a substantial likelihood that the limited analysis by Justice may be the only scrutiny of the sale's competitive effects ever provided, as private parties will in the future be denied the opportunity for the scrutiny normally provided under the antitrust laws. Moreover, the scope of immunity proposed here is of concern, as it could be read so broadly as to extend far beyond the basic sale transaction.

Third, the effort to have this transaction approved by the Congress, based only on the Justice "fix", without analysis of the competitive effects by the courts or by agencies like the ICC or USRA that are familiar with railroads, and with no substantial opportunity for informed public participation, creates the appearance of an effort to move the merger through Congress precisely to avoid the intense scrutiny a proposal of this magnitude requires.

While each of the foregoing aspects of the process itself raises questions, together they create the potential that the merger of two of the three largest railroads in the eastern half of the country will become effective with no fully informed administrative, judicial, legislative or public scrutiny of its competitive effects, as well as no opportunity, because of immunity, for any such scrutiny in the future.

At Transportation's request, Justice rendered an advisory opinion concerning the obvious anticompetitive effects of the merger, along with some proposals for fixing most, but not all, of those effects. It appears that Justice, after an analysis of certain information that has not been made public, and after negotiations with Norfolk Southern, the extent and nature of which also are not known, has concluded that the merger is anticompetitive, but that, with certain divestitures and other arrangements, most of the identified anticompetitive effects of the merger can be removed. The anticompetitive impacts that remain, in the words of Assistant Attorney General McGrath, "should not be permitted to scuttle the whole transaction." While I certainly agree with Justice that the merger is anticompetitive, I do not believe the "fix" is either substantively or procedurally adequate.

I do not know what information was reviewed by Justice in reaching its conclusions, and am not in the position to question the bona fides of its analysis or conclusions. However, I do question the process under which those conclusions were reached. The process of negotiating in advance employed by Justice here raises obvious questions as to the course, nature, and scope of the investigation, analysis, and negotiation employed. Perhaps in the process, Justice's attention was deflected from some areas of concern because of a focus on other aspects. Moreover, if the actual give and take embodied in most negotiations occurred, what is it that Justice surrendered or ignored in exchange for promises by Norfolk Southern elsewhere? It is significant that we will never know any of these things, because none of the process has been fully disclosed or opened to the scrutiny of the public or the other affected parties.

When I came to the Division, it was fairly common practice in merger cases for Division attorneys and the merger partners to engage in "pre-filing" negotiations. In the course of those negotiations, it often became clear as to what could be accomplished -- short of full-scale litigation -- to remedy the anticompetitive effects of a merger that would violate the Clayton Act. What worried me about this practice was the tendency of the Division thereafter to "pull its punches" in the Complaint -- to allege only those effects it knew it could cure with the consent of the defendants. It may well be, given the Justice Department analysis of this transaction, that this practice was followed here.

It was, in part, concerns about the completeness and effectiveness of such negotiating processes, and the lack of subsequent review, which prompted the implementation of a policy during my time with the Antitrust Division of refusing to negotiate divestiture "cures" in advance of litigation. I also believe that it was Congress' concern with this sort of private, unreviewed negotiation which prompted passage of the Tunney Act. Under the Tunney Act, any consent decrees reached by Justice and litigants in private litigation are subject to court approval with the opportunity for public hearing and intervention by other affected parties. The most notable recent example of the use of the Tunney Act procedures was in the divestiture of the AT&T monopoly. The proposed merger here is on a scale close to that involved in the AT&T matter and should be subject to the same sort of extensive, independent review of the measures negotiated to cure its anticompetitive effects. Indeed, in a sense, the right to public scrutiny may be greater here than in the AT&T matter. In AT&T, Justice was seeking to end an established concentration in an industry, not, as here, allowing the creation of increased concentration in an industry.

My second set of concerns involves the significant questions raised by the immunity proposed for this transaction. The legislation proposed by the Department of Transportation would provide that the merger "is deemed approved by the [Interstate Commerce] Commission under Chapter 113 of title 49, United States Code." This, of course, calls into play the provisions of Section 11341 of the Interstate Commerce Act, which provides that a rail carrier participating in the approved transaction "is exempt from antitrust laws and from all other law, including state and municipal law, as necessary." Thus, although the merger will in fact never be reviewed by the ICC under its extensive merger approval procedures, it will have the benefit of full immunity, as if it had been subjected to such a review. As a consequence, any prospect of effective future public scrutiny will be foreclosed.

Beyond the fact that immunity will further the aura of secrecy which has pervaded the entire process thus far, the scope of that immunity also raises substantial questions as to what conduct, if any, and whose conduct, ever again will be subject to the antitrust laws. The transaction, as now contemplated, would require a series of divestitures of lines and trackage rights, agreements for restoration of certain "joint rates and through route requirements," rail switching service "on customary terms and conditions," and rate agreements between the new system and the divestiture carriers.

It would thus appear that the immunity would cover not only the base transaction but also extend to all of the implementing procedures required by Justice. This raises a number of questions.

Can the new entity agree in the future to set anticompetitive rail switching arrangements with impunity and argue that its actions are immunized because they are somehow related to the merger? Arguably yes. Can the new entity set rates collectively with divestiture carriers in an anticompetitive fashion and argue that the conduct is immunized because it is related to the implementation of the merger? Arguably yes. Indeed, both because the immunity is so broad, and because the nature and specifics of the implementing transactions are so vaguely defined, it is likely that the immunity granted will be expanded to cover even the most remote consequences the new rail entity can relate to the base transaction. Contrary to established antitrust policy that grants of immunity are to be strictly applied, because of the lack of specific details about the transaction and its requirements, there is an opportunity here for the new rail giant to cause substantial anticompetitive mischief while operating under the umbrella of immunity.

My final concern about the process, which is in part really an extension of my two prior concerns, is that, as a result of the manner and method of Justice's review, the promise of full immunity, and the lack of any extensive, independent, public investigation to date, it is likely that the particulars of this transaction, now shrouded in secrecy, will remain secret and never be subject to the full and independent analysis they require. To date, there has been no analysis by an independent agency based on usual principles of antitrust law and subject to ordinary administrative and judicial review procedures. Moreover, because of immunity, there likely will never be.

This is unprecedented. Indeed, I know of nothing like it in the entire history of antitrust law. If, for example, this merger were a non-railroad merger, it would be subject to the normal Hart-Scott-Rodino Act review process by Justice. However, that process, and any decision made by Justice, would not foreclose legal challenges by concerned private parties. Or, if this merger had arisen in the context of a proposed consent decree in litigation between Justice and Norfolk Southern, the decree and its impact would have been subject to Tunney Act procedures for judicial review and the opportunity for public comment and participation.

If this were any other rail merger, it would be subject to full ICC review. Under its review process, the ICC is charged with evaluating whether the transaction is in the public interest and whether it would have any adverse effect on competition. Public notice is required, and there is full disclosure of all relevant information. The Departments of Justice and Transportation are participants in that proceeding, but their views are not, as proposed here, dispositive. Moreover, the ICC is accorded fifteen months to conduct its evaluation, and its conclusions are subject to review in the courts.

Other examples may also come to mind. What is significant is that there are a variety of administrative and judicial review procedures normally employed in assessing the competitive implications of mergers and the adequacy of divestitures. There appears to be no legitimate reason to shield the proposed sale of Conrail to Norfolk Southern from such procedures. Indeed, considerations of public policy demand that such a careful, open, and searching review occur, if not now, at least before any immunity foreclosing future public scrutiny be allowed. Whatever may be the final results of a full and open analysis of all aspects of the proposal, public policy and the preservation of accepted antitrust procedures require that the analysis take place. Immunity should not be granted to this transaction unless and until it has been been the subject of a full and open review.

ATTACHMENT 6

[From the National Law Journal, Apr. 22, 1985]

SALE OF CONRAIL IS LATEST CHAPTER IN SAD HISTORY OF RAILROAD MERGERS

(By Donald I. Baker)

RAILROAD MERGERS have been an unhappy experience for antitrust enforcers during the past quarter century. Major mergers have been authorized — frequently over the objection of the Justice Department — in the name of "efficiency" or "competitive balance" and yet have often turned out to be inefficient or anticompetitive.

The proposed sale of Conrail to Norfolk Southern Corp. — the largest rail merger in history — seems to be the latest chapter in this sad story. It is being carried out by an extraordinary process in which closed-door negotiations and congressional hearings are being substituted for the normal process of evidence taking, independent decision-making and appellate review. The Justice Department's limited role in this process tells a lot about the present state of antitrust enforcement when politically sensitive issues are at stake.

The U.S. government is the proud owner of 85 percent of the stock in Conrail — a unique federal ward created out of the wreckage of the Penn Central and other bankrupt northeastern railroads in 1976. It has been an expensive ward (at least in non-defense expenditure terms): The federal government has pumped some $7 billion into the railroad, and Conrail has accumulated tax credits and loss carry-forwards on the order of $2 billion.[1]

Now, under the leadership of Stanley Crane, a former president of Southern Railway, Conrail has turned the corner. As one of its principal competitors has testified, "Conrail, in a relatively short period of time, has been transformed from a moribund and decrepit railroad into a strong and aggressive competitior."[2] In 1983 Conrail earned $313 million, and in 1984 just over $500 million.[3]

The federal government, not surprisingly, now wants to sell its Conrail stock. There is no desire in today's Washington to have the government remain in the railroad business. The debate is over *how* the government's Conrail stock is to be sold and, in particular, *whether* it is to be sold to one of Conrail's two large competitors.

The leading voice in the debate is that of Transportation Secretary Elizabeth Hanford Dole (who, incidentally, is a former Federal Trade Commissioner). Last year, the Department of Transportation invited bids for the government's stock and received over 100 expressions of interest.

DOT narrowed the list down. Secretary Dole ultimately selected Norfolk Southern — the holding company created by the recent merger of the Norfolk & Western and Southern railways. The price is $1.2 billion, plus surrender of accumulated Conrail tax benefits. DOT rejected a proposal by Conrail for a public offering of the government's stock — which would have kept the railroad as an independent competitor.

IN SEPTEMBER 1984 — some five months before the final decision was made — Secretary Dole asked the Antitrust Division to evaluate the competitive implications of selling Conrail to Norfolk Southern. On Jan. 29, 1985, then Asst. Attorney General J. Paul McGrath responded with a nine-page letter on "our independent investigation." Mr. McGrath concluded:

> **The merger would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states, with the greatest adverse effect occurring at locations along an east-west corridor running between Buffalo and Pittsburgh in the East and St. Louis and Chicago in the West.**

Therefore, he explained, "Without appropriate divestitures, the proposed merger would violate both Clayton Act and Interstate Commerce Act merger

review standards." The Antitrust Division then proposed "divestiture of [specified] rail assets to an independent entity or entities capable of providing long-term, viable, and competitive rail service along this corridor" between Buffalo-Pittsburgh and Chicago-St. Louis.

Secretary Dole promptly embraced the Justice Department's proposed divestiture (and related conditions) and negotiated with Norfolk Southern for their inclusion in the final sale contract. DOT also submitted a bill to Congress to immunize the transaction from further antitrust scrutiny, by treating the merger as if it had been approved by the Interstate Commerce Commission after a full evidentiary hearing.[4]

The net result is that the Antitrust Division's informal investigation — carried on without compulsory process and other normal statutory merger procedures — would be the only inquiry into obvious competitive consequences of this major merger. "This is unprecedented," former Asst. Attorney General for Antitrust Thomas Kauper stated starkly to the Senate Judiciary Committee.[5] It is also very disturbing to anyone concerned about application of effective competition policy through normal legal processes.

THE RAILROAD business is more monopolistic than most in economic terms because it is capital intensive and involves largely immobile assets. Railroad history is replete with picturesque monopoly abuses — including price gouging, predatory pricing, cartels and blatant discrimination. This history was very familiar to the drafters of the Sherman Act.

At the same time, because railroading is characterized by high scale economies, large potential efficiencies can be achieved by consolidating low-volume railroad lines. Yet whether the benefits of efficiency get passed on to the shipping public depends on effective competition or effective regulation — neither of which has been regularly present.

Federal policy toward the railroads has been characterized by a fundamental tension between "competition" and "efficiency" ever since the passage of the Interstate Commerce Act of 1887 and the Sherman Act in 1890. Merger policy is just part of this picture.

1890-1920
The Antitrust Era

Railroads were very visible monopolists and a prime target of early antitrust enforcement.[6] Teddy Roosevelt's Justice Department pioneered merger enforcement with the celebrated *Northern Securities* case — blocking a proposed stock affiliation between Northern Pacific and Great Northern railroads. *Northern Securities Company v. United States*, 193 U.S. 197 (1904).

Justice Oliver Wendell Holmes Jr., joined by three others, dissented, arguing in a famous phrase, "Great cases, like hard cases, make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment." 193 U.S. at 400.

"Every railroad monopolizes, in a popular sense, the trade of some area," Justice Holmes argued, and therefore a stock combination of such monopoly railroads did not offend the Sherman Act. Theodore Roosevelt retorted in disgust that, "I could have created someone with more backbone out of a banana."

Northern Securities was followed by three more leading cases blocking combinations between large, competing railroads. *United States v. Union Pacific R.R. Co.*, 226 U.S. 61 (1912) (Union Pacific-Southern Pacific); *United States v. Reading Co.*, 253 U.S. 26 (1920) (Reading-Central); and *United States v. Southern Pacific Co.*, 259 U.S. 214 (1922) (Southern Pacific-Central Pacific).

"These cases, collectively, establish that one system of railroad transportation cannot acquire another, nor a substantial and vital part thereof, when the effect of such acquisition is to suppress or materially reduce the free and normal flow of competition in the channels of interstate trade." *Southern Pacific*, 259 U.S. at 230-231.

1920-1975
The Regulation Era

THE INTERSTATE Commerce Commission, armed with expanded statutory powers, became an ever more pervasive — and often perverse — regulator of railroads and the new competing modes of surface transportation. Competition was frequently sacrificed in the name of "stability," "fairness" or "efficiency."

The Transportation Act of 1920 mandated a whole new approach to railroad mergers. The ICC was told to develop a nationwide plan "for the consolidation of the railway properties of the continental United States into a limited number of systems."

The ICC was authorized to approve mergers and to grant antitrust immunity to approved mergers. "The question whether the acquisition of control in the case of competing carriers will aid in preventing an injurious waste and in securing more efficient transportation service is thus committed to the judgment of the administrative agency upon the facts developed in the particular case." *New York Central Securities Corp. v. United States*, 287 U.S. 12, 25-26 (1932).

The Transportation Act of 1940 relieved the ICC of its duty to promulgate a national rail consolidation plan and rewrote its authority to approve and immunize merger. The Supreme Court noted, "the altered emphasis in railroad legislation on achieving an adequate, efficient and economical system of transportation through close supervision of business operations and practices rather than through heavy reliance on the enforcement of free competition." *McLean Trucking Co. v. United States*, 321 U.S. 67, 83-88 (1944).

"The Congressional purpose in . . . 1940 . . . was to facilitate merger and consolidation in the national transportation system." *County of Marin v. United States*, 356 U.S. 412, 416 (1958).

ICC railroad merger cases under the 1940 Act have had a *Jarndyce v. Jarndyce*[1] quality — going on forever and producing often-bizarre results. Protecting weaker railroads or including them in a proposed merger was an important part of the ICC litigation.

The *Penn-Central* merger proceedings went on for almost 15 years and included two appeals to the Supreme Court. *Baltimore & Ohio R.R. Co. v. United States*, 386 U.S. 372 (1967); *Penn-Central Merger Cases*, 389 U.S. 486, 493, 495 (1968). The merger was approved, despite the fact that it eliminated a great deal of rail competition in the Northeast, because proponents satisfied the ICC that there would be "enormous savings in transit time" and "savings in expense [of] more than $80,000,000 annually." 389 U.S. at 493.

In fact, the promised savings never materialized, and Penn Central spectacularly failed in 1970. The Justice Department had opposed the merger before the ICC, but abandoned its opposition when the case reached the Supreme Court.

Meanwhile, the old *Northern Securities* decision was overturned in the *Northern Lines Merger Case*, approving a merger between the Northern Pacific, the Great Northern and their jointly owned subsidiary, the Burlington. The ICC approved the merger between the two strongest competitors in the Northern Tier because operating efficiency would be improved, and various traffic protective conditions would make sure that the weaker Milwaukee Road "would become a meaningful competitor."

Again, the Justice Department opposed, and this time persisted in its opposition all the way to the Supreme Court. The Supreme Court affirmed the ICC, stating that the commission had "exhibited concern and sensitivity to the difficult task of accommodating the regulatory policy based on competition and the long range policy of achieving carrier consolidations." *United States v. Interstate Commerce Commission*, 396 U.S. 491, 514 (1970).

Unfortunately, the ICC proved wrong again. The Milwaukee Road went bankrupt and ultimately abandoned its transcontinental line. The Burlington Northern has thus become a rail monopoly across most of the Northern Tier.

THIS HISTORY caused some serious questions to be asked. In a nicely titled article, "Putting the Caboose Before the Engine?[2]", Forbes Magazine asked in 1979: "But are mergers the answer? The Pennsylvania-New York Central merger was, of course, a total disaster. And Penn Central was only one of 17 mergers made during the Sixties before the Penn Central bankruptcy brought the merger movement to a screeching halt. The dismal fact is that of those 17 mergers only three seem to rank as unqualified successes." The article also quoted Stanley Crane (then president of Southern Railway, now chairman of Conrail) for the same point he is making today: "Merger is not a panacea or substitute for good railroad management."

1980-Present
The Deregulation Era

The deregulation movement of the late 1970s produced a new emphasis on competition and the appointment of more competition-minded ICC commissioners. The key deregulation landmark is the Staggers Rail Act of 1980.

The statute grandly proclaims "the policy of the United States Government" to be "to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail . . . to insure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes [and] to maintain reasonable rail rates where there is an absence of effective competition." 49 U.S.C. 10101a.

With respect to rail mergers, the Staggers Act revised the "public interest" standard in the 1940 Act and specifically instructs the ICC to consider "whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region." 49 U.S.C. 11344(b)(1)(E). The Staggers Act makes competition much more important in the rail business than it has ever been in modern times, as a means of assuring efficiency, risk-taking and reasonable rates. Conrail, a strong proponent of the new Act, has been visibly aided by its pro-competitive policies.

THE HANDLING of the Conrail sale seems particularly bizarre in the Staggers Act world. The ICC is bypassed, and nobody has conducted anything like public, evidentiary proceedings over whether the sale to Norfolk Southern "would have an adverse effect on competition among rail carriers in the affected region." Yet the DOT bill would treat the Norfolk Southern purchase as if it had been approved by the ICC under the Staggers Act, after full evidentiary proceeding, and therefore grant it antitrust immunity.

I do not pretend to understand fully the competitive issues involved in the Conrail-Norfolk Southern transaction. No public record has been developed that permits such an evaluation.

Suffice it to say, Conrail has a virtual monopoly on railroad transportation in most of New York, New Jersey and Pennsylvania.[9] Conrail is also the head-to-head competitor with Norfolk Southern and Chessie System (now called CSX) hauling freight between western Pennsylvania and the western gateways in Chicago and St. Louis. It is a major supplier of transportation services to many shippers throughout the industrialized Middle West. Conrail also competes with Norfolk Southern and CSX in hauling coal (a commodity peculiarly dependent on rail transport)[10] from the Appalachian fields. In sum, the Norfolk Southern-Conrail combination would clearly eliminate a great deal of rail competition.

The Justice Department recognized this reality in Mr. McGrath's Jan. 29 letter to Secretary Dole — but it thought the problem could be solved by some tailored divestitures and regulatory injunctions. The Department "identified more than 100 markets located in 39 counties in 21 states in which it appeared a merger between Conrail and Norfolk Southern could have a significant anti-competitive effect. With respect to these markets, Conrail and Norfolk Southern participated in movements involving $516.1 million in rail revenues in 1983."

These markets included many of the larger industrial centers in Ohio, Michigan, Indiana and western Pennsylvania. In some, the combination would create a complete rail monopoly. This competitive situation would (as the Department conceded) clearly violate Sec. 7 of the Clayton Act and the merger provisions of the Staggers Act.

The Department then developed a "proposed remedy" designed to allow the Norfolk Southern transaction to go forward. This would require Norfolk Southern to spin off about 1,000 miles of trackage and trackage access rights to new, smaller competitors in the Middle West.

These carriers must be approved by the attorney general and "capable of providing long-term, viable and competitive rail service along this corridor" from Western Pennsylvania to Chicago and St. Louis. CSX was excluded from eligibility on the ground that it was already a major competitor in the market.

Candidates to acquire the divested lines were not specifically discussed in the Justice letter; they ended up being Guilford — a new amalgamation of bankrupt Boston & Maine, Delaware and Hudson and Maine Central properties — and the small Pittsburgh & Lake Erie Railroad.

Congressional witnesses from Conrail and CSX, which oppose the Norfolk Southern sale, vigorously contest the quality of the trackage being divested and even more the capability of the two small roads to compete effectively with Conrail. The "proposed remedy" also depends on these small railroads being able to obtain certain gateway and local switching rights from a merged Norfolk Southern-Conrail.

THE ANTITRUST Division's competitive analysis may be correct. Its divestiture proposals may be imaginative. However, the "proposed remedy" has some worrying echoes of the Milwaukee Road situation following the *Northern Lines* merger.

Even if the "proposed remedy" works, it will provide a new competitive alternative for only 72 percent of the traffic the department identified as adversely impacted. The anti-competitive effect on the balance of the traffic is justified on "efficiency" grounds.

What is striking here is the limited and informal nature of the Antitrust Division's "independent investigation." Accordingly to Mr. McGrath's subsequent congressional testimony, the division staff contacted Norfolk Southern and Conrail and interviewed some shippers. It apparently received various documents in response to voluntary requests.

This process is very much at odds with the Antitrust Division's staff handling of at least two industrial mergers with which I have been involved during the past year. Each was a fraction of the size of the Norfolk Southern-Conrail deal and involved a much less complex competitive environment. Yet in each instance, the staff made demands (under the pre-merger notification procedures of the Hart-Scott-Rodino Act) for documents that resulted in production of more than 100,000 pages, and took at least a dozen formal depositions of the parties (under the Antitrust Civil Process Act). The staff also served civil investigative demands on competitors and other third parties.

I also understand that, in last year's much larger LTV-Republic Steel merger, the Department hired independent consultants to evaluate the "efficiency" claims of the parties. In sum, the Antitrust Division staff is highly professional and knows how to run a thorough (and burdensome) merger investigation if it needs to.

IT IS VERY interesting, therefore, to look at what the Department has *not* done in connection with its Norfolk Southern inquiry:

- It has not looked at whether there are any less anti-competitive alternative purchase offers available. Compare *United States v. Third National Bank in Nashville*, 390 U.S. 171, 186-189 (1968) (requiring such an evaluation for bank mergers) and the 1984 Justice Department Merger Guidelines.
- It has not publicly analyzed the viability of the Conrail "public offering" proposal — which would keep Conrail as an independent competitor. (Conrail's investment bankers, Morgan Stanley, say strongly that it is viable; DOT's investment bankers, Goldman Sachs, say the opposite.)
- It has not used the Heffindahl-Hirshman Index, its standard for measuring anti-competitive effects under the Merger Guidelines.
- It has not weighed the "efficiency" claims in anything but very general terms. Compare 1984 Merger Guidelines.
- It has not yet publicly analyzed the probable viability of the proposed spin-offs to Guilford and Pittsburgh & Lake Erie, or the associated conditions.
- It has not issued civil investigative demands for documents or taken depositions of anybody (apparently because the staff doubted whether the Antitrust Civil Process Act applies to

transactions involving the U.S. government).

Facilitating a Sale

I feel great sympathy for Mr. McGrath and the Antitrust Division staff. They were obviously under great pressure from within the administration to help find a way to facilitate a sale to Norfolk Southern — which Secretary Dole believes will provide the highest price to the government for its stock, and provide maximum reassurance against the government ever having to rescue Conrail again.

Yet the price seems to include significant losses of competition, even after the divestitures. As Mr. McGrath explained to the Senate Commerce Committee, "I decided, however, that this remaining loose end should not be permitted to scuttle the whole transaction."[11]

Mr. McGrath might have enjoyed reading J.P. Morgan's comment to his lawyer, when in 1885 — exactly a century ago — the financier was trying to combine two Pennsylvania railroads in violation of a Pennsylvania constitutional prohibition on combinations among competing railroads.

"Well, I don't think you can legally do that," said his lawyer.

Mr. Morgan replied: "Well, I don't know as I want a lawyer to tell me what I cannot do. I hire him to tell me how to do what I want to do."[12]

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(1) Conrail enjoyed a unique status under prior federal legislation. P.L.-93-236; 45 U.S.C. 701 et seq. Its estimates of earnings are therefore not fully comparable to other railways. Secretary Dole stated that since Conrail pays no state taxes, the states are effectively subsidizing by $25 million to $26 million annually; and Conrail is being subsidised by its employees who have been paid between $120 million and $130 million less than they would have earned if Conrail has paid national scale. Statement of Elizabeth H. Dole, secretary of transportation, before the Senate Commerce Committee Hearing on the Sale of Conrail (Feb. 27, 1985), pp. 13, 15.

(2) Testimony of John W. Snow, president and chief executive officer of Chessie System Railroads, before the Senate Judiciary Committee on March 27, 1985, at page 34.

(3) These numbers overstate Conrail's real earnings because of the various special benefits that Conrail has enjoyed as a ward of the federal government. See footnote 1. Both Conrail's president, Stanley Crane, and the transportation secretary, Elisabeth Dole, estimate that Conrail's 1984 earnings, on a purely comparative private basis, would have been in the order of $300 million.

(4) See DOT's "Conrail Sale Amendments of 1985" Sec. 104(a). The DOT bill specifies "preserving patterns of service" and "maximizing return to the government" as specific goals, but says nothing about competition. Sec. 2.(6). This shows less apparent concern for competition than the general statutory provisions governing the disposition of surplus government property. Legislation enacted after World War II requires the Department of Justice to review any proposed disposition of government property (costing over $1 million) and to advise whether "such disposal would tend to create or maintain a situation inconsistent with the antitrust laws." 40 U.S.C. 488.

(5) Memorandum on the proposed sale of Conrail to the Norfolk Southern Corp. submitted to Chairman Strom Thurmond on March 29, 1985. Prof. Kauper was appointed assistant attorney general by President Nixon in 1972 and remained in office until 1976 — a longer period of service than any other modern assistant attorney general. He opposes the Norfolk Southern transaction in his memorandum.

(6) United States v. Trans-Missouri Freight Assn., 166 U.S. 290 (1897) and United States v. Joint-Traffic Assn., 171 U.S. 505 (1898) (attacking rate cartels) and United States v. Terminal Railroad Assn., 224 U.S. 383 (1912) (attacking restraints on terminal access) are all landmarks in Sherman Act jurisprudence.

(7) See C. Dickens, Bleak House.

(8) J. Cook, "Putting the Caboose Before the Engine," Forbes, March 5, 1979, page 43.

(9) Sen. D'Amato of New York told the Senate Commerce Committee "Conrail is now the only effective means of moving freight by rail in New York . . . New York City . . . is captive to Conrail." Commerce Committee Hearing on Sale of Conrail, Feb. 28, 1985, pages 55-57.

(10) See, Coal Exporters Ass'n of U.S. v. U.S., 745 F.2d 76 (D.C. Cir. 1984). The court overturned an ICC order that had exempted rail rates on export coal shipments from regulation on the grounds that market forces were adequate to ensure that the railroads (Norfolk Southern, CSX, etc.) would not abuse their market dominance.

(11) Senate Commerce Committee Hearing on the Sale of Conrail, Feb. 27, 1985, p. 84.

(12) M. Josephson, The Robber Barons (1962), p. 299.

ATTACHMENT 7

The Proposed Divestiture Would Not Remedy the Anticompetitive Effects of Norfolk Southern's Acquisition of Conrail

The Department of Transportation has asked Congress to authorize the sale of Conrail to the Norfolk Southern Railroad (NS). The public policy questions raised by this proposal are numerous and substantial. First, the merger of these two competing railroads is unnecessary—Conrail is financially strong and its future is secure, as is. Second, the sale is financially unjustifiable—NS is paying $1.2 billion to purchase a company with over $800 million in the bank, $500 million in profits last year, and $6 billion in assets. Third, the sale is anticompetitive—necessitating a major restructuring of the Northeast-Midwest rail system to satisfy the Justice Department's objections. The restructuring itself presents grave difficulties and is unlikely to succeed. Moreover, absent the proposed sale, there would be no reason to restructure the existing, competitively viable, financially successful Northeast-Midwest rail system. Fourth, the contours of the sale and divestiture transactions are unknown. The transactions have been negotiated in almost total secrecy. Finally, DOT seeks to insulate the sale plan and the divestitures from judicial review and the normal scrutiny by which all mergers—railroads or otherwise—are judged. Considering the size and the impact of these transactions, shielding them from review is indefensible.

In short, the public interest requires that this transaction be carefully scrutinized. Many things about it need to be reconsidered; primary among them is whether it is in the public interst to sell Conrail to any private owner. And then a careful look must be taken at this particular proposal—its tax and labor effects, its transportation policy implications, its anticompetitive consequences, and the efficacy of the remedies proposed for some of its more obvious adverse impacts.

The Department of Justice, looking primarily at direct head-to-head competition which would be eliminated by Conrail's sale to NS, concluded that the sale "would have a significant adverse effect on competition." Had the Justice Department looked beyond just the elimination of direct competition, other significantly adverse impacts on competition would have been found. In an attempt to remedy the adverse consequences that even the Justice Department acknowledges, DOT and NS propose to require the merged entity to divest certain high cost/low revenue rail lines to two small regional carriers who, between them, lost more than $75 million over the last three years. These divestitures, DOT claims, will allow these regional carriers to compete with the merged mega-railroad whose combined systemwide 1984 net income exceeded $1 billion after taxes and whose 1984 revenues exceeded $6.5 billion. Some of the reasons why this proposal is unlikely to meet its stated goals are detailed below.

I

A Conrail/NS Merger is Anticompetitive.

To appreciate fully the futility of the proposed divestitures as remedies for the serious anticompetitive impact of the merger, it is useful to describe how Conrail and NS compete today.

Conrail and NS are vigorous competitors in thousands of rail markets. Competition between Conrail and NS takes several forms. First, there is parallel line competition between points now served by both carriers, which allows shippers to play one railroad against the other for reduced rates and improved service. In 1984, Conrail alone generated over $50 million in revenue from traffic affected by this type of competition. Head-to-head competition would be largely eliminated in Illinois, Indiana, Maryland, Michigan, Missouri, New York, Ohio, Pennsylvania, and West Virginia.

Second, there is competition between Conrail and NS at points where traffic originates, even if it is destined to points not served by both carriers. Traffic benefiting from competition between Conrail and NS at origin generated over $220 million in rail revenue in 1984. Similarly, competition exists at commonly served destination points for traffic originating at points not served by both carriers. Traffic benefiting from this type of Conrail/NS competition generated approximately $240 million in rail revenue in 1984. These three types of competition thus affected Conrail traffic worth over $500 million in 1984.

There is also "source" competition, occurring when the carriers serve different points but the shippers located at those points compete in national markets. It is in each carrier's interest, in those instances, to help its shipper compete with the other. Similarly, competition arises when Conrail acts as advocate for industries in its region. Through aggressive marketing, competitive pricing, and innovative industrial development programs, Conrail creates new markets for producers located on its lines and in the region it serves. These forms of competition—while difficult to quantify—are real facts of economic life and translate into dollars and cents for producers and consumers.

Finally, competition is diminished on a nationwide basis by the loss of Conrail as an innovative force in the rail industry. Conrail has been a leader in bringing the rail industry into the twentieth century, making it more competitive and responsive to shipper needs. This aspect of Conrail's marketing strategy and its effect on service and rate levels cannot be overstated. In 1980, Conrail led the fight for the Staggers Act and is aggressive in its efforts to implement the freedoms it granted. In 1981, Conrail withdrew from the rate bureaus in which rates had been set collectively for over a hundred years. To this day, it remains the only railroad to have done so. In 1981, in response to Congressional direction in the Staggers Act, Conrail began to challenge the "equalized joint rate" system under which every route between two points, regardless of cost or efficiency, was priced the same. Conrail alone fought for the right of carriers to price independently and, therefore, competitively, and Conrail has led in the development of computer technology to facilitate such independent pricing. DOT's proposed legislation—calling for restoration of certain joint rates and through routes—would effectively repeal these fundamental Staggers Act reforms which are intended to promote independent, pro-competitive pricing and to preclude collusive ratemaking practices.

II

The Department of Justice's Analysis is Seriously Flawed.

In analyzing the Conrail/NS merger, the Justice Department analyzed only parallel line competition. The Department did not even mention the other forms of competition whose elimination would cause the greatest harm to shippers and consumers. Moreover, in making this inexplicably restricted analysis, no actual point-to-point movements of traffic were considered. Instead, Justice looked only at competition within counties, a meaningless undertaking, since rail traffic does not move in such patterns. No previous Justice Department rail merger study has relied solely on such an analysis.[1]

Even from this limited scrutiny, Justice concluded that "the merger would have a significant adverse effect on competition," violating both Clayton Act and Interstate Commerce Act standards. The Department, therefore, predicated its approval of the merger on creation of a remedy for the loss of parallel line competition. In particular, the Department insisted that the harm caused by the merger in ten specifically identified counties be remedied. The DOT/NS "quick fix" remedy is deficient in every respect. It cannot satisfy even the limited goal of replacing the direct NS-Conrail competition that would be lost through the merger, and does not meet the Justice Department's requirements.

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[1] Even this analysis ignored data proffered by a major competitor of NS in the eastern United States. Although CSX offered to supply data and information concerning the impact of the merger, no such data were ever requested. Thus, the record before Justice was obviously incomplete.

III

The Proposed Remedy Cannot Work.

The Justice Department stated that it would oppose the merger unless "competitive problems are remedied through a prior or concurrent divestiture of assets that is approved by the Attorney General." The divestiture must include the sale of Conrail and/or NS rail assets along an east-west corridor running between Buffalo and Pittsburgh in the East and St. Louis and Chicago in the West. The specified assets (lines of railroad or trackage rights over those lines) must be divested "to one or more independent acquirers, other than CSX or any entity owned or controlled by CSX, that would provide *long-term, viable, and competitive rail service* to locations along the corridor." (Emphasis supplied.) In particular, Justice identified ten counties in Indiana, Michigan, New York and Ohio that would be particularly harmed by the merger and where remedies were especially needed.

DOT and NS have proposed that certain lines be sold to the Pittsburgh and Lake Erie Railroad (P&LE) and others to Guilford Transportation Industries (Guilford). The proposed divestiture to Guilford includes certain Conrail lines, despite the requirement of the Regional Rail Reorganization Act of 1973 that if Conrail passes certain tests of profitability it must be sold as a single entity. Conrail passed these tests, proving itself to be profitable, and yet the Department of Transportation and NS propose breaking up the Conrail system through divestiture to Guilford. This proposal is contrary to the spirit and the letter of the law.

Since neither the analysis leading to, nor any of the details about, the proposed divestitures have been made public, little is known about the proposal other than the lines involved.

Specifically, NS proposes to transfer to Guilford Conrail's line running from Chicago through Fort Wayne and Delphos to Crestline, OH and the NS line running from St. Louis to Delphos, OH. From Crestline to Cleveland and Euclid, OH, Guilford would acquire trackage rights over Conrail lines. The NS main line from Euclid to Buffalo, NY, running along Lake Erie, would also go to Guilford. In addition, Guilford would acquire a Conrail branch line running from Bucyrus, OH to Toledo, and an NS branch between Kokomo, IN and Indianapolis.

The P&LE would acquire the Norfolk Southern line connecting Connellsville, PA (Southeast of Pittsburgh) with Toledo, OH, a Conrail line connecting Youngstown, OH with Spencer, OH, and lines connecting Canton, OH to Zanesville, OH, Cleveland, OH, and Oneida, OH. In addition, P&LE will acquire lines running between Steubenville, OH and Wheeling, WV, Pittsburgh Junction to Rayland, OH, and Adena to Georgetown, OH.

Beyond these bare fundamentals, no information is available about the relationship contemplated between NS and P&LE or NS and Guilford, the terms of the purchase, or DOT involvement in the divestuture. Based just on what is known, however, the flaws in the divestiture proposal are legion. First, it does not meet even the most explicit of the Justice Department's requirements—that loss of competition in ten identified counties be remedied. The proposed divestitures do not provide additional service in Wayne County (Detroit, MI) or Washtenaw County (Ann Arbor, MI). This is especially troublesome in view of the substantial benefits Conrail/NS competition brings to the automobile industry in Detroit.

Second, the proposed divestitures cannot meet the Justice Department's requirement for "long-term, viable and competitive" rail service, since:

- DOT and NS have not specified the price to be paid for the divested lines except to set the price at "net liquidation value." Net liquidation value of the trackage Guilford is to acquire is well over $55 million. The net liquidation value of the trackage to be transferred to P&LE is in excess of $42 million;[2]
- the divested lines will require approximately $168 million in rehabilitation expenditures and a minimum of $17 million per year to operate and maintain;
- the divested lines cannot reasonably be expected to generate revenues sufficient to cover even these out-of-pocket costs, let alone cover other costs or produce a profit;
- Guilford and P&LE lost more than $8.8 million in 1984, and more than $77.5 million between 1982-1984. They cannot afford to operate their existing systems, much less turn the newly acquired lines into "long-term" "viable" competitors with Conrail/NS.

In sum, Guilford and P&LE, already losing millions of dollars per year, are asked to become serious competitors, based on low-density, high-cost operations, with a merged entity with high-density, highly maintained lines, more than 400 million tons of combined traffic, and over $6.5 billion of combined revenues.

A. *The Financial Status of Guilford Transportation and Pittsburgh and Lake Erie RR.*

1. Guilford. Guilford has recently acquired one company emerging from reorganization (the Boston and Maine RR), one failing railroad (the Delaware and Hudson) and a Class II carrier, the Maine Central. It is even now struggling to integrate and operate these lines. The Boston and Maine lost $2.1 million in 1982 and showed modest profit of $1.6 million in 1983 and $7.9 million in 1984. The D&H, however, lost $20.3 million in 1982, $16.4 million in 1983, and $6.9 million in 1984.

The Maine Central earned $1.2 million in 1982, $3.4 million in 1983, and $1.8 million in 1984. These small profits are due to revenue received from renting its equipment to other roads, not carrying freight. This form of revenue, known as car hire, accounted for $4.4 million in 1982 and $3.3 million in 1983. The 1984 car hire figures are not yet available, but are expected to more than account for its small 1984 profit. This source of revenue is unlikely to be available in the future, since car hire rules are undergoing substantial transformation by the ICC.

On a consolidated basis, Guilford reported a net loss over the three-year period of $29.8 million, despite favorable car hire earnings. The following chart compares Guilford net income with the combined Conrail/NS.

	Guilford	Combined CR/NS
1982 Net Income	Loss $21.2 million	$636 million
1983 Net Income	Loss $11.4 million	$669.5 million
1984 Net Income	$ 2.8 million	$982.4 million

2. P&LE P&LE lost $47.7 million over the last three years; $12.6 million in 1982, $23.5 million in 1983, and $11.6 million in 1984. These losses occurred notwithstanding $21 million in car hire earnings in 1982-3 (1984 figures are not yet available). Moreover, the 1984 losses occurred in the face of significant revenues from the sale of large numbers of freight cars. This one-time transaction may not be available to minimize its losses in the future. The following chart compares P&LE net income with the combined Conrail/NS.

	P&LE	Combined CR/NS
1982 Net Income	Loss $12.6 million	$636 million
1983 Net Income	Loss $23.5 million	$669.5 million
1984 Net Income	Loss $11.6 million	$982.4 million

3. No mention is made by DOT or NS of the price to be paid for the divested lines other than to call it "net liquidation value." Nor has there been an answer to the question of where these companies will find the money. On the basis of net liquidation value, Guilford will be asked to pay well over $55 million for the trackage it is to acquire and P&LE well over $42 million.[3]

4. The following chart highlights other relevant comparisons among Guilford, P&LE, and the merged Conrail/NS system. It shows that by key measures relevant to viable, long-term rail competition, Guilford and P&LE are dwarfed by the Conrail/NS system and overwhelmed by the financial and competitive resources available to Conrail/NS. These divestitures are thus unlikely to remedy the anticompetitive effects of the merger.

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[2] Of the $55 million to be paid by Guilford, over half represents the net liquidation value of the Conrail trackage involved. The remainder is Conrail's estimate of the net liquidation value of NS trackage to be transferred to Guilford. All of the amount to be paid by P&LE represents Conrail's estimate of the net liquidation value of the NS trackage to be transferred.

[3] These figures are based upon the net liquidation value of just the trackage involved and are therefore conservative estimates of the amounts Guilford and P&LE will be asked to pay. These figures do not include the value of the property, buildings, bridges and other facilities to be transferred.

COMPARISON OF P&LE, GUILFORD, AND A COMBINED CONRAIL/NS SYSTEM *

	Pittsburgh & Lake Erie	Guilford	Combined Conrail/NS
1984 Railway Operating Revenues	$50.3 Million	$304.1 Million	$6.8 Billion
1984 Working Capital (Current Assets Minus Current Liabilities)	(Deficit) $65.3 Million	(Deficit) $1.1 Million	(Surplus) $1.5 Billion
Miles Operated in Freight Service in 1983	404	2,917**	34,158
1983 Traffic Density Revenue Per Mile	$123,005	$75,438**	$177,574
1983 Traffic Density Average Tons Carried Per Route Mile	2.7 Million	2.1 Million**	4.6 Million
1983 Efficiency—Excess of Railway Operating Revenues Over Railway Operating Expense, Per Route Mile	(Deficit) $36,600	(Deficit) $1,936**	(Surplus) $23,327

* 1984 Data Used Where Available.

** The Maine Central, a small Class II carrier, does not file financial reports with the ICC. Therefore, its figures are not included in this analysis.

B. *Guilford Will Have to Invest at Least $143 Million and P&LE over $25.5 Million to Operate the Acquired Properties.*

Despite their large financial losses, P&LE and Guilford will have to make a combined investment exceeding $168 million in the trackage they acquire to make it conform to FRA standards and offer competitive service. No one at DOT or NS suggests how these two ailing entities will be able to finance this capital investment program. Without it, however, there can be no competitive service, because much of the track, as it now exists, is not physically able to carry the level of traffic necessary to make it a viable competitor in the market. Most of the $168 million is needed just to rehabilitate the lines and construct the yards, sidings, and connections needed to put them into operation.

For example, the line from Chicago to Crestline to be acquired by Guilford is 260 miles long. Over the last nine years, the line has required approximately $7.0 million of heavy track maintenance annually.[4] Comparable investment will continue to be needed on an annual basis if the line is to provide competitive service. To offer competitive service to St. Louis, Guilford must acquire all new rail and 330,000 ties, plus ballast and related materials, at a cost of $110 million. Branch lines connecting points on the main line to Indianapolis (55 miles), Toledo (56 miles), and Decatur, IN (16 miles) will be operated at only 30 m.p.h. Nevertheless, these lines will require new rail for almost all of the Toledo and Decatur lines, and ties on all three, costing another $21 million.

Even the most rudimentary operation will require rehabilitation of Colehour Yard (outside Chicago) and the Lorain Running Track, as well as connections at Crestline, Cleveland, and Delphos. Total cost for this rehabilitation will be in excess of $5 million.

These figures do not include the substantial cost of purchasing land and building yards along the system. These costs cannot be avoided if Guilford is to provide service.

For example, some sort of rail yard will have to be constructed at Delphos, where Guilford must split traffic bound for the Chicago and St. Louis gateways. At present, there is no connection between the line running through Delphos to Crestline and the line from Crestline to Cleveland. Constructing one will be no easy task, since the land at the apparent interconnection point in Crestline currently holds the concrete abutments supporting a major highway. Similarly, yard facilities will be required at Toledo, Cleveland, St. Louis, Indianapolis, and, depending upon traffic volume, Kokomo, IN and Bucyrus, OH. This would require many more millions. In sum, the rehabilitation of track and facilities required to provide minimal service at competitive speeds will require Guilford to invest more than $143 million.

P&LE will have to invest in excess of $25.5 million in rehabilitation on the lines it is to acquire. The track from Connellsville, PA to Toledo, OH requires general maintenance and tie replacement, costing $6.5 million. The lines connecting Canton, OH with Zanesville, Youngstown, OH with Spencer, and Cleveland, OH with Canton require new ties and twenty miles of rail replacement. This will cost approximately $14.5 million.

The lines connecting Steubenville, OH to Wheeling, WV; Pittsburgh Junction to Ryland; and Canton, OH to Oneida, OH will require over $4.5 million in rehabilitation. Again, these estimates do not include the costs of the connections, yards, and sidings needed to make the property operational.

Assuming that such capital investment is possible and that traffic begins to move over these lines, Guilford and P&LE will have to maintain the facilities in accordance with FRA standards. Maintenance will cost Guilford more than $12 million a year and P&LE over $5 million even if the lines carry only minimal tonnage.

Again, it bears repeating that none of these figures includes the acquisition cost of the lines.

C. *Anticipated Revenues from the Divested Lines Will Not Cover Even Rehabilitation and Maintenance Costs.*

Faced with such acquisition, rehabilitation, and maintenance costs, Guilford and P&LE must move substantial amounts of profitable traffic over the acquired lines. It is possible only to speculate about what traffic is available.

1. Guilford is to acquire three major pieces of track—Chicago to Bucyrus, OH, St Louis to Delphos, OH, and Cleveland to Buffalo. These lines currently carry little freight. The vast majority of the traffic moving between these points moves over Conrail and NS lines not proposed for divestiture. For example, from Chicago to Delphos, the Conrail line which is to be sold to Guilford now carries less than two million gross tons of freight per mile annually. Amtrak is the principal user. In comparison, the Conrail line out of Chicago, which is being retained and which will compete with the divested line, carries 60-90 million gross tons per mile. The NS line from Chicago carries more than 20 million gross tons per mile. The unit costs of conducting such high-density operations are, of course, substantially lower than the unit costs that will be incurred by Guilford, making it difficult for Guilford to compete profitably. Similarly, the St. Louis to Delphos line being divested by NS carries only one million gross tons per mile annually. This low-density line cannot compete with the heavy-density, well-maintained Conrail main line from St. Louis, which carries in excess of 30 million gross tons per mile annually.

There is little chance of Guilford's acquiring much new business over these low density lines, even after rehabilitating them. For example, the line it is to acquire along Lake Erie to Buffalo, now owned by the NS, runs parallel to Conrail's main, multiple track into Buffalo. Few shippers are located on the track proposed for Guilford. This means that traffic using that line will have to come from east of Buffalo or between Cleveland and Bucyrus, or between Cleveland and Lorain. Almost all of the traffic from these points currently moves over retained Conrail or NS lines. The likelihood of Guilford's low-density, high cost operation diverting substantial traffic from the Conrail/NS system is modest.

Guilford's traffic possibilities are further limited by service problems. Guilford will not be able to meet the competitive transit times of a Conrail/NS system, because its low volume operation will not permit regular, timely interchange with western carriers at the gateways. Western carriers will interchange this traffic at their convenience, waiting for existing train movements to which they can add the relative handful of extra Guilford cars. The Conrail/NS system will carry enormous volumes of traffic with rapid, regular interchanges. Very few shippers will be willing to wait one or more extra days to get their traffic via Guilford.

To the contrary, it is more likely that a combined Conrail/NS system will divert traffic *from existing* Guilford lines. Today, most NS east-west traffic destined for New England is interchanged with Guilford lines at Buffalo. After a merger, this traffic (at least that which terminates at points served by both Conrail and Guilford) will move over Conrail/NS routes. Even joint-line Guilford/Chessie System traffic will find it hard to compete with the single-line routes of the new railroad.

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* This sum represents that part of maintenance of the line which is capitalized and neither accounts for day-to-day maintenance nor non-recurring improvements.

2. The potential for P&LE to provide competitive service over lines [illegible] for its acquisition is equally small. P&LE would be able to offer single-line service for Pennsylvania/West Virginia coal to utilities located in Toledo. However, the market for such high sulfur coal is quickly diminishing because of environmental regulations. P&LE has no on-line source of low sulfur coal, and is not, even after the proposed divestiture, positioned to act as a bridge carrier for such coal.

Similarly, P&LE opportunities in the steel market, are limited. Because the steel industry is struggling, Conrail and other railroads have foregone rate increases on steel traffic. P&LE interplant steel movements between Pittsburgh, Cleveland, Akron, Youngstown, and other Ohio/Pennsylvania points would have to be price competitive. But P&LE, with high unit costs and substantial rehabilitation requirements, will not be able to match these rate reductions in the long run.

IV
Conclusion

The divestiture scheme proposed by DOT and NS will not ameliorate the loss of competition brought about by a Conrail/NS merger. The divestitures are an attempt to recreate what already exists: a financially secure, procompetitive rail system in the Northeast and Midwest. As with most attempts to fix things that are not broken, however, the national rail system will be substantially worse off than when the process began.

In sum, both the process followed by the Department of Justice and the results it reached are seriously flawed. Even so, its conclusion is clear: the proposed merger is significantly anti-competitive. These anti-competitive consequences -- affecting shippers and consumers all over the country -- cannot and will not be remedied by the DOT/NS divestiture plan, as discussed in response to some of the questions that follow.

SENATOR ANDREWS: How does allowing Guilford and the P&LE trackage rights preserve competition?

ANSWER: This question has been answered in the response to Senator Andrews' fifth written question.

SENATOR ANDREWS: Has Conrail overfunded (non-agreement) employee pension funds? What happens to the excess (or overfunding) in a sale of Conrail?

ANSWER: It is estimated that as of March 1, 1985, the Conrail Supplemental Pension Plan had approximately $292 million in surplus assets available on a termination basis. Under normal circumstances Conrail or a perspective owner could terminate the supplemental pension plan and recover this excess funding. In this case the sale covenants prevent Norfolk Southern from realizing the full benefit of the surplus for five years. However the investment structure of the portfolio could be modified to guarantee that this surplus would grow to $500 million by the end of the five year termination prohibition.

A Norfolk Southern would access the surplus indirectly by reducing future contributions or increasing the current Plan investment return assumption. The Plan could also be merged with Norfolk Southern's existing plan to improve its funded status and reduce annual expenses and contributions. Finally, a potential owner could terminate its existing plan to recover any potentially available surplus and transfer the active employees participation to the well-funded Conrail Plan.

SENATOR ANDREWS: What is the book value of Conrail's total assets? What is the equity book value of Conrail?

ANSWER: The net book value of Conrail after depreciation as of December 1, 1984 is $4.3 billion. The equity book value of Conrail as of December 31, 1984 is in excess of $4 billion.

SENATOR ANDREWS: To what extent was Conrail involved with the Justice Department's analysis of the proposed merger. Had Conrail asked to be given the opportunity to comment on Justice's analysis before it became public?

ANSWER: On September 25, 1984, Bruce B. Wilson, Conrail's Vice President and General Counsel, received a letter from Paul A. Mapes, an attorney in the Justice Department's Antitrust Division. Mr. Mapes advised Mr. Wilson that the Justice Department had been asked by the Department of Transportation to review the possible acquisition of Conrail by Norfolk Southern. Mr. Mapes asked Conrail to provide certain specified data to assist the Justice Department in its review. Conrail complied with that request and with subsequent requests for additional, specified information. In addition, Conrail met with representatives of the Justice Department to answer questions regarding the information previously supplied.

Conrail requested an opportunity to meet with then Assistant Attorney General McGrath to discuss the Justice Department study. Mr. McGrath declined. On January 3, 1985, Conrail representatives met with Charles F. Rule, then one of Mr. McGrath's deputies. Thereafter, Conrail provided some additional information requested by Mr. Rule during the meeting. Conrail did not ask, and the Justice Department did not offer to allow Conrail to read or comment on the Department's analysis, nor was a copy ever provided to Conrail by the Justice Department.

REGARDING A MONOPOLY

SENATOR ANDREWS: It is curious to this Committee that in their analysis the Justice Department completely ignored the already monopoly position that Conrail enjoys in the Northeast. Has restoring competition to Conrail's region been a consideration in any of the deliberations?

ANSWER: This question and the following one both assume that Conrail has a monopoly in the Northeast, and perhaps in much of the rest of its region. This assumption is incorrect.

The basic configuration of Conrail was mandated in 1975 by the United States railway Association (USRA) in the Final System Play (FSP), pursuant to the Regional Rail Reorganization Act of 1973. The FSP was the result of a painstaking effort to reorganize the railroads of the Northeast and Midwest into a financially self-sustaining rail system that preserved rail competition in the region for the ultimate benefit of the public. Before approving the FSP, USRA considered and rejected alternatives, including a plan to create two new railroads in the region. USRA approved the structure of Conrail on the conviction that it would best serve the statutory goals of competition and financial stability. Conrail had no choice in establishing this original structure.

USRA recognized that the FSP established a structure from which Conrail could evolve as economic and competitive conditions changed. Indeed, since 1976, Conrail has further rationalized its system under the provisions of the Northeast Rail Service Act of 1981. Deregulation of the rail and motor carrier industries in the years since Conrail's formation has dramatically increased competition in the transportation industry by giving railroads and motor carriers new tools (*e.g.*, pricing freedom and ease of entry into new markets) for inter- and intramodal competition. As a result, Conrail has substantial vigorous competition from other railroads and, more importantly, other modes of transportation.

These developments have demonstrated the correctness of USRA's analysis of the financial and competitive conditions in Conrail's region.

The overwhelmingly dominant mode of transportation in Conrail's region is trucks. USRA in its April 1985 report, Outlook for Conrail: 1985-1988 (USRA REPORT), recognized the effect of truck competition in general, as well as in Conrail territory.

> "Deregulation of motor carrier transportation has profoundly increased the competitiveness of the transportation market entry and reduced restrictions on operating authority have aided most those segments of the motor carrier industry that compete effectively with railroads. These truckload carriers, which often use owner-operated equipment, now have a wider range both in commodities and territory as well as increased allowable size and weight limits."

In Conrail's territory, intermodal competition is particularly effective because of the region's industry and geography. The report states:

> "Conrail still has an unusual dependence upon the non-bulk freight carried short distances in the Northeast, and therefore remains more vulnerable to increasingly effective truck competition than any other major U.S. railroad."

SENATOR ANDREWS: Would you agree that the Justice Department in their decision calling for divestiture of certain lines west of Pittsburgh and Buffalo is being inconsistent in saying that you really need competition only in that part of the country and not the Northeast?

ANSWER: This issue is covered in the answer to the previous question.

SENATOR ANDREWS: Mr. Crane, in your opinion, if the Milwaukee Road (3,500 miles and nearly bankrupt) is worth a bid of $786 million by one interested party, and over $500 million by another, how much could be gotten for Conrail?

ANSWER: Chicago & North Western Transportation Company and the Soo Line Railroad Company made bids to purchase the Milwaukee, St. Paul & Pacific Railroad. C&NW offered total consideration (including debt assumption) valued at $786 million and Soo offered $571 million. Since the Milwaukee Road is projected to have $24.2 million of net income for 1984, the offers by C&NW and Soo would imply price and earning ratios of 32X and 23X, respectively and are clearly out of line with current railroad P/E ratios at 10X - 11X. If these P/E ratios were applied to Conrail's projected 1984 earnings of approximately $500 million, total consideration for Conrail would have to be $11.5 - $16 billion.

When looking at actual cash and stock being offered for the Milwaukee Road, the P/E ratios are not as unreasonable. Soo appears to have offered approximately $148 million and C&NW. $175 million. P/E ratios on this basis are 6X and 7X. Applied to Conrail these would translate into a $3 - $3.5 billion purchase price. Morgan Stanley & Company has suggested a 4.5X P/E ratio for Conrail, and therefore the uncertainty attached to the Milwaukee Road's projected income for 1984 and beyond would hardly justify a 6X or 7X ratio for a railroad coming out of bankruptcy.

SENATOR ANDREWS: Does Conrail know why it wasn't really put up for bids, but negotiated for within parameters set by the Allegheny Corporation's initial bid of $1 billion?

ANSWER: Conrail was not involved or informed on DOT's negotiations with the various bidders and the establishment of price and other parameters set by the Allegheny Corporation's initial bid.

SENATOR ANDREWS: The Department of Transportation has said on many occasions that any sale had to meet the public interest criteria first. Does the proposed sale in Conrail's estimation meet the public interest criteria? Given the proposed merger, how many miles of track would you see being abandoned by Norfolk Southern because it is duplicative? How much will service be reduced? How many Norfolk Southern employees could lose their jobs because of this merger?

ANSWER: This question has been answered in the reponse to Senator Andrews' fifth written question.

VALUE OF CONRAIL

SENATOR ANDREWS: Presumably merging the two railroads makes certain real property surplus. Have you made any estimate of the value of Conrail property that would no longer be necessary for railroad purposes after a merger is completed?

ANSWER: While we have estimated the approximate number of miles of duplicate trackage as well as yards and facilities that might be surplus, we do not know Norfolk Southern's specific abandonment plans and have not seen any final agreement as to those duplicate lines and facilities to be divested and thereby continued in service. In view of this it is not possible to calculate what property would no longer be necessary for railroad purposes after a merger is completed.

Conrail currently does own some non-operating property which could be sold by a purchaser without impacting railroad operations. Such real estate sales could result in cash receipts of approximately $25 million per year over the next five years.

SENATOR ANDREWS: The USRA has estimated Conrail "cash flow" at $717 million in 1985 and an average of $589 million for each of the following three years. Cash flow is often used as an indicator of the value of a company. What is the ratio of market value to cash flow for other railroads. i.e., CSX, Norfolk Southern, Chicago Northwestern, Soo Line for example?

ANSWER: In determining the ratio of market value to cash flow for the other major railroads, it is necessary to use data for rail holding companies, since an objective value based on market activity cannot be attached to the component railroads. The following table lists the ratio of market value to cash flow for the major rail holding companies in 1984.

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	Ratio Market Value To Cash Value
CSX Corporation	2.6
Norfolk Southern Corporation	4.1
Burlington Northern, Inc.	1.9
Union Pacific Corporation	3.8
Santa Fe Southern Pacific Corp.	3.0
IC Industries	3.8
Average of Above	3.0

Note: Market value was determined from the number of shares of common stock outstanding at the end of 1984 times the average price of the stock over the last year.

SENATOR ANDREWS: Can you name any railroad that has a market valuation of two times cash flow, as being asked for Conrail ($1.2 billion/$598 million)?

ANSWER: As can be seen from the table in the previous question, Burlington Northern, Inc., has a market valuation of approximately two times cash flow in 1984. All the other rail holding companies had higher ratios, ranging from 2.6 for CSX Corporation to 4.1 for Norfolk Southern Corporation. The average ratio of market value to cash flow in 1984 was approximately 3.0, considerably greater than that being asked for Conrail. It should also be noted that Burlington Northern's low ratio in 1984 appears to be an aberration caused by an unusually high cash flow. Their ratios in 1983 and 1982 were 2.5 and 3.6 respectively.

SENATOR ANDREWS: One reason for ruling out a public offering of Conrail stock is that the size of the transaction would upset the market. This prompts the question of whether selling Conrail to another railroad might upset a railroad's finances. Could any railroad other than Norfolk Southern afford to borrow $1.2 billion to buy Conrail without harming its credit rating?

ANSWER: In our opinion several railroads (other than Norfolk Southern) would be able to acquire Conrail through a combination of cash, new equity issues, and borrowing, without damaging their credit rating. These would include UP, SF-SP, BN, and CSX. Several of these roads have not shown a specific interest in acquiring Conrail at this time due to their current efforts to complete existing mergers of their own.

SENATOR ANDREWS: While there are clear advantages to selling Conrail to another railroad, doesn't insisting on selling it intact effectively rule out most potential rail buyers?

ANSWER: Selling Conrail as a single entity would rule out many potential railroad buyers. Only the largest and financially sound railroads or railroad holding companies would be able to purchase a company the size of Conrail.

SENATOR ANDREWS: Would a break-up of Conrail encourage more railroads to bid for the parts, providing more money for the Government and more competition for shippers?

ANSWER: A breakup of Conrail might encourage more railroads to purchase segments of the company. Unfortunately, only the more attractive lines and facilities would likely be sold resulting in very substantial abandonments of track, shops, and facilities. This would severely impair rail service in Conrail's market territory and cause large employee layoffs. When considering loss of taxes (both corporate and property), railroad retirement income, earnings of industries adversely impacted by the break up of Conrail, and family income for employees terminated, it is doubtful that the U.S. Government would receive more proceeds from such a sale as would be currently envisioned by the sale of Conrail as an entity.

SENATOR ANDREWS: Conrail has $846 million in cash and $587 million in working capital. Other than Norfolk Southern, can any other railroads match these figures?

ANSWER: Cash and working capital levels for individual railroads owned by a holding company are less meaningful than for those of the holding company itself. The following table indicates the cash (including temporary cash investments) and working capital levels for Conrail and the major rail holding companies in 1984. Columns 3 and 4 express cash and working capital as a percent of revenue in order to eliminate differences caused by relative sizes of the corporations.

	Cash (Millions)	Working Capital (Millions)	Cash as a % of Revenue	Working Capital as a % of Revenue
Conrail	$ 846	$587	25%	17%
CSX Corp.	377	231	5	3
NS Corp.	1,047	915	30	26
BN Inc.	254	-15	3	-
UP Corp.	503	91	6	1
SF-SP Corp.	815	649	12	10

As can be seen from the table, none of the other major rail holding companies can match the Conrail or Norfolk Southern figures.

SENATOR ANDREWS: CSX reports working capital of $231 million for FY 1984 while Burlington Northern actually has negative working capital of $14.7 million. Why has Conrail developed such a large amount of working capital?

ANSWER: Why is Conrail's working capital so much greater than CSX and Burlington Northern, as indicated in the table below:

($ in Millions)

	Conrail	CSX	BN
Current Assets			
Cash	$ 846	$ 377	$ 254
Inventories	161	458	392
Accts. Rec. and Other	509	1,320	1,337
Current Assets	1,516	2,155	1,983

	Conrail	CSX	BN
Current Liabilities			
Accts. & Wages Payable	$ 809	$1,663	$1,845
Current Maturity of Debt	120	261	153
Current Liabilities	929	1,924	1,998
Working Capital	$ 587	$ 231	$ (15)

The increase in Conrail's working capital results from the improved cash flow from operations, coupled with the restrictions in the Finance Agreement with the U.S. Government that restricts the investment of excess funds to short term U.S. Government securities or top rated commercial paper. The Financing Agreement also precludes Conrail from using excess funds for diversification and other investment opportunities which from a strategic standpoint would normally be pursued by a stand-alone company.

Both the CSX and Burlington Northern were each involved in substantial diversified investments in 1983 which significantly lowered their available cash. CSX acquired Texas Gas Resource Company at a cost of $1.1 billion, most of which came from available cash. The Burlington Northern acquired El Paso Company at a cost of $1.3 billion, which lowered its cash by almost $1 billion.

Under ordinary circumstances, the cash balance can be managed in context with capital plans and investment opportunities. Conrail's Financing Agreement does not permit investment of excess cash in other than short term securities, as mentioned above. These temporary cash investments along with the free cash are a key part of working capital in the balance sheet of the company.

SENATOR ANDREWS: Having a large amount of working capital has often been cited as making a company an attractive takeover target. Has the large amount of excess funds been built up to make it more attractive to an acquiring company or a leveraged buyout?

ANSWER: As indicated in the answer previous to this question, the Financing Agreement between Conrail and the U.S. Government precludes Conrail's investment of excess funds in any kind of long term investment and only in short term U.S. Government securities or top rated commercial paper. Consequently, the working capital of Conrail has increased to the extent that cash flow from operations has been improved.

SENATOR ANDREWS: Wouldn't it be appropriate for Conrail to consider paying dividends on its preferred stock?

ANSWER: The Financing Agreement between Conrail and the U.S. Government provides for a certain sequence of payments when Conrail's accumulated earnings exceeds $500 million. The payment sequence is as follows:

1. Interest on Debentures - $64 million
2. Dividends on Series A Preferred Stock - $192 million

3. Dividends on Series B Preferred Stock - $159 million
4. Redemption of Debentures ($851 million outstanding)
5. Redemption of Series A Preferred Stock $2,555 million

Conrail's accumulated earnings are currently less than the total stipulated in the Financing Agreement before payment of interest or dividends is required to take place. With continued improvement in operations, it is expected that Conrail could meet the criteria to commence making payments to the government in the next few years.

AMTRAK SALE

SENATOR ANDREWS: The administration proposes zero funding for Amtrak. What effect would this have on Conrail?

ANSWER: Conrail estimates that this would allow it to save approximately $9,540,044 annually.

SENATOR ANDREWS: How much does Conrail currently pay to Amtrak for using Amtrak's Northeast Corridor track?

ANSWER: Our 1984 payment to Amtrak was $19,630,619.

SENATOR ANDREWS: If Amtrak were no longer an operating entity, what would it cost Conrail to maintain the existing track?

ANSWER: The estimated cost of maintaining a "freight only" track and signal layout would be $10,090,575.

SENATOR ANDREWS: At a recent Committee hearing, Graham Claytor said that the fully allocable costs to Conrail for the service provided by Amtrak was in the neighborhood of an additional $82 million. Do you agree with that figure?

ANSWER: No, we do not. We stand by the ICC decision.

SENATOR ANDREWS: Mr. Claytor further stated that an Interstate Commerce Commission (ICC) decision prevented Amtrak's full recovery of the costs associated with the service provided. What was that ICC decision? Why doesn't Conrail fully reimburse Amtrak for services provided?

ANSWER: The ICC decision stated that Conrail should only pay the incremental costs associated with its use of the corridor. If further explains that since Amtrak was the dominant user and a high speed user, it should pay the basic fixed costs.

SENATOR ANDREWS: If Amtrak no longer existed, approximately 21,000 employees would be affected. Do any of these employees have "bumping rights" back to Conrail? How many?

ANSWER: If Amtrak were to cease operations, many Conrail employees would be affected and entitled to labor protection. These affected employees would be included in one of three categories as follows:

Employees

1.	Current employees of Conrail who perform Amtrak work, off-corridor.	579
2.	Employees who transferred to Amtrak 1-1-83 and who continue to accumulate Conrail seniority.	1,345
3.	Employees who transferred to Amtrak prior to 1-1-83 and who are currently considered on "leave of absence" from Conrail.	3,476
	Total employees .	5,400

Total Section 701 Liability - $108 Million

NOTE: The figures in item 3 were received from Amtrak and we feel it may produce too high a number as a result of subsequent attrition.

SENATOR ANDREWS: What would be the effect of employees coming back to Conrail? Would Conrail have to (in turn) lay off some of its employees? Would the laid off Conrail employees be able to collect Section 702 employee benefits?

ANSWER: Amtrak employees who possess Conrail seniority would be entitled to displace (i.e. "bump") Conrail employees with less seniority, following a discontinuance of Amtrak service. We believe that Conrail employees deprived of employment as a result of their displacement by returning Amtrak employees would be entitled to receive labor protection benefits pursuant to Section 701 of the 3R Act, based upon Section 1165(b) of the Northeast Rail Service Act.

Certain engine service employees who are engaged in the performance of intercity passenger service may be entitled to exercise their seniority to currently vacant freight fireman positions. Section 702 of the 3R Act was enacted to enable Conrail to eliminate excess fireman and second and third brakeman positions. While Conrail believes that Section 702 could be used to address the problem created by engine service employees occupying unnecessary freight fireman positions, we understand the position of the United Transportation Union to be that Conrail has exhausted its right to terminate excess engine service employees pursuant to Section 702.

SENATOR ANDREWS: Has Conrail done an analysis of the effects of a "no Amtrak scenario" would have on Conrail? For the record, please provide the Committee a brief summary of the estimated effects; including costs, personnel impacts and service impacts.

ANSWER: Conrail estimates that zero funding for Amtrak would allow it to save approximately $9,540,044 annually.

COMPETITIVE IMPACT OF NORFOLK SOUTHERN PURCHASE OF CONRAIL

SENATOR ANDREWS: On January 29, 1985, the U.S. Department of Justice wrote the Department of Transportation that the proposed merger of Norfolk Southern and Conrail "would have a significant adverse effect on competition for the transport of commodities to and from a number of locations in several states." Moreover, Justice concluded that the merger would violate the Clayton Act and the Interstate Commerce Act merger review standards, unless "appropriate divestitures were made." Are you aware of the divestitures the Department of Justice considers appropriate?

ANSWER: This question has been answered in the response to Senator Andrew's fifth written question.

SENATOR ANDREWS: Do you believe these divestitures would mitigate the anti-competitive aspects of the merger?

ANSWER: This questions has been answered in the response to Senator Andrew's fifth written question.

SENATOR ANDREWS: Mr. Crane, does Conrail currently compete with the Pittsburgh and Lake Erie and Guilford Transportation? Are you familiar with the two organizations? Do you believe they possess the managerial, operational, and financial capability necessary to compete effectively and to remain a viable entity providing long-term rail service along the designated corridor as the Department of Justice requires?

ANSWER: I believe that neither the P&LE nor Guilford Industries will provide long-term viable competition along the designated corridors. Both are small regional carriers, and both are in poor financial health. I am attaching an analysis of the proposed divestitures which discuss in some detail the improbability of effective competition from these two carriers against a rich, powerful Conrail/NS. There are a few points I would like to highlight.

Conrail both competes and, as with other railroads, works with the P&LE and Guilford through the normal interchange of railcars moving in interline service.

I am familiar with both railroads. While both the P&LE and Guilford are competitors of Conrail (Guilford primarily serves upper New England, a market not available to Conrail), they form a minor part of the total competitive picture. Both serve considerably smaller markets; both are considerably smaller than Conrail physically, volume- and revenue-wise. And the question is whether they will be able to provide effective competition against a combined Conrail/NS system, with combined 1984 operating revenue of $6.8 billion. In contrast, P&LE had operating revenue of $50 million, and D&H and B&M (two of three major components of Guilford; the third, MEC, a small Class II carrier, does not file financial reports with the ICC; therefore, its operating revenues are not available) had operating revenue of $300 million. The comparison becomes even more ludicrous when one considers net income figures. Together, Conrail and NS over the last three years earned almost $2.3 billion. P&LE and Guilford together lost more than $75 million over the same period.

Both roads serve limited geographic areas, with minimal or declining manufacturing capacity. The P&LE handles a small number of commodities (coal, coke, and steel products) and serves the Pittsburgh area. Guilford serves eastern New York State and New England, terminating manufactured products traffic and originating forest, farm, or food products traffic, also functioning as an overhead carrier (through the D&H) for Canadian traffic.

P&LE lost almost $50 million over the last three years. The P&LE's 1983 Railroad Annual Report (R-1) indicates that as of the filing of that report, the P&LE was in default under various debt agreements. That report conditioned the future of the company on "the successful restructuring or renegotiation of its debt and lease agreement". There is no doubt that this is a railroad in dire financial health.

Guilford, through the D&H, competes with Conrail on traffic moving to or from New England through the Buffalo or Washington gateways in connection with other trunkline railroads. Over the last three years, D&H lost more than $43 million, while at the same time incurring a substantial debt from the U.S. Government which provided D&H operating funds over the past several years. The B&M, the other major Guilford component, just emerged from bankruptcy after many years in reorganization. It is only marginally profitable.

DOJ proposes an increase in operations more than trebling the present sizes of both railroads. Such an increase will require a managerial system of much larger magnitude than either road presently has. By managerial system, I mean the staff, organizational structure, and computer capability necessary to run a railroad and keep the trains moving. To treble the size of a railroad requires a substantial amount of money, and neither DOT, NS, nor the acquiring railroad themselves can show where that money is supposed to come from. Moreover, the lines to be acquired by both companies will require major rehabilitation and maintenance expenditures to enable them to provide competitive rail service; neither company has the independent financial resources to accomplish this. It is highly doubtful funds could be secured in the private sector for what would, we believe, be viewed as speculative venture. Likewise, without the cash-on-hand or available credit lines, these companies will not be able to afford the lead time to develop the expertise and support systems necessary for an effective operation of their expanded lines.

Also, this raises the question of a continuation of the U.S. Government's role in the Northeast rail system. The rationale for DOT's divestiture of Conrail is its desire to get out of the railroad business. Will the Federal government now front-end the monies to effectively transfer (upgrade) the lines and provide interim operating funds? Is this what DOJ had in mind in its proposal? Is this what DOT is proposing behind the facade of their stated objective of a "self sufficient rail system" in the Northeast? These questions must be answered before a decision as to the efficacy of the proposed divestiture can be made.

SENATOR ANDREWS: What percent of the traffic in the various markets identified by Justice do you think Guilford and P&LE would get?

ANSWER: I assume you are referring to the lines which are proposed for transfer and trackage rights. The answer is very little. While no extensive study has been made of this potential by Conrail, a review of traffic presently moving on the Conrail lines to be transferred, coupled with several rudimentary elements of rail competition, lead to this conclusion.

Most of the traffic handled to or from locations (stations) along lines proposed for transfer originate or terminate at common points served by other railroads, which means the P&LE and Guilford would be engaging in competition with these other railroads. Guilford would, of course, have some edge in handling traffic to or from the New England area which originates or terminates on their present lines; the P&LE has no such advantage since most of the locations they now reach are jointly served by other carriers.

Buyers of transportation buy price and quality of service, not unlike customers of any other product. Conrail and NS have an edge in both areas; a combination of the two railroads would only strengthen this position. One determinant of price is cost; Conrail and NS have the lowest operating ratios in the industry (the operating ratio is operating costs divided by operating revenues, an indicator of efficiency and profitability). The P&LE and the two major Guilford roads have among the highest; in fact, the P&LE has operated at well over 100% in recent years (costs exceed revenues). This cost disadvantage will severely hamper P&LE/Guilford to price competitively; in the rail industry there is little margin to price discount before running into the cost buffer. Because the P&LE and Guilford are starting out "behind the power curve", their position dictates a losing if not marginal operation for years to come. At the same time, an NS/CR combination will provide new efficiencies, further lowering unit costs (the sheer size of the joined company and market power will afford substantial opportunity) which will exacerbate the already imbalanced competitive position of the P&LE and Guilford.

Aside from whatever start-up problems may be encountered, the P&LE and Guilford will be hard pressed to compete against the low cost, high quality service which could and would be provided by an NS/CR colossus. Speaking for Conrail, our service is second to none in this industry. The tracks and plant have been rehabilitated and are well maintained; there is no deferred maintenance. The same is true for our equipment supply and locomotives; the active fleet is in prime shape. Train operations run smoothly and on time, making scheduled connections a high percent of the time. Our tracks directly connect the major production/consumption centers with minimal circuity.

Both the P&LE and Guilford will be absorbing rail lines which do not meet high maintenance standards and will therefore impede speedy and efficient rail movement. Without an acceptable level and consistency of service, reasonable customers will select that railroad which can meet their expectations.

SENATOR ANDREWS: Would the mere existence of a railroad alternative prevent Norfolk Southern/Conrail from increasing rates?

ANSWER: No. It would be only one of many factors which contribute to the setting or changing of rates or prices for rail service. Conrail or NS, or any railroad for that matter, not only competes with other railroads, but with other modes of transportation. These include our most challenging competitor, truck, as well as barge and, to a lesser extent, air and pipeline. A combination of these competitive pressures help shape the market factors which impact "salable" price levels. One should keep in mind that under deregulation Conrail has lowered rates, in many instances to effectively compete with truck carriers.

Often forgotten in this inquiry is the more critically important determinant of price, the cost of doing business, and that includes replacement or investment costs. Cost is the base or minimum standard from which a business may or may not be conducted to generate an adequate return on investment. Unlike many other industries, railroads have considerable fixed costs and therefore less margin for price discounting to meet competitive alternatives. Because of a comparatively high cost floor, there are markets in which a railroad should not be involved, those where providing such service is not economically efficient. A railroad stifled by high costs cannot provide effective competition.

Most customers in making a decision to purchase transportation will consider the quality of service. Normally, a premium will be paid where the service is better and meets one's needs. The mere existence of an alternative railroad does not guarantee comparable service; differences in plant and track condition and operations will be reflected in service quality. To the extent the alternative railroad can match equivalent price and service levels, it may be a successful competitor.

SENATOR ANDREWS: Would competition between Guilford or P&LE and a merged Norfolk Southern/Conrail be on even terms?

ANSWER: This question has been answered in the response to Senator Andrews' fifth written question.

SENATOR ANDREWS: Are you familiar with the physical condition of the lines that would go to P&LE and Guilford?

ANSWER: This question has been answered in the response to Senator Andrews' fifth written question.

SENATOR ANDREWS: Are these lines as cost-effective to operate over as the lines Norfolk Southern/Conrail would be operating over?

ANSWER: This question has been answered in the response to Senator Andrews' fifth written question.

SENATOR ANDREWS: Between Buffalo and St. Louis, do you think Guilford could offer competitive service with a merged Norfolk Southern/Conrail. In terms of operating cost, speed, frequency of service and lading damage? Would you elaborate.

ANSWER: No. These routes are not as good as Conrail's -- and Guilford's much lighter volume would be inadequate to generate adequate revenues to support these lines, and to maintain frequent service.

SENATOR ANDREWS: Are the routes proposed for divestiture currently maintained as well as the routes Norfolk Southern Conrail would keep.

ANSWER: This issue is covered in the answer to the previous question.

SENATOR ANDREWS: Mr. Crane, in your opening testimony, you state that a merged Conrail/Norfolk Southern would possess 50 percent or more of the Northeast/Midwest rail market for chemicals, grain, automobiles, metals, scrap and auto parts. Do you believe that CSX can compete effectively in these markets?

ANSWER: I must defer to the CSX for a determination of its ability to compete in these markets where a combined Conrail/NS would enjoy more than 50% of the rail market. CSX has warned, however, in the face of the merger, that it would be forced to abandon thousands of miles of its system and substantially reduce the number of its employees.

SENATOR ANDREWS: Will Conrail upgrade the lines proposed for the transfer to Guilford and P&LE?

ANSWER: Not that we know. (Some are N&W, not Conrail lines. Those which are Conrail lines; Carrothers-Toledo and Crestline-Indiana Harbor, are in suitable condition for their present use -- but might require accelerated rehabilitation for increased tonnages.)

SENATOR ANDREWS: Have any terms been discussed for the transfers, for example, price or the terms of an operating agreement?

ANSWER: This question has been answered in the response to Senator Andrews' fifth written question.

SENATOR ANDREWS: If Conrail sells a line to Guilford or P&LE, will it be a taxable event? If Norfolk Southern sells a line, will it be liable for taxes if the line sells for more than book value?

ANSWER: Due to Conrail's "Mass Asset Election" relative to the track accounts, any consideration received for the sale of track, for Federal Income Tax purposes, would be reported as ordinary income. The sale of other roadway property depending upon its un-depreciated value and consideration received, would result in gain or loss for Federal Income Tax purposes.

The sale by Norfolk Southern of track and other roadway property for Federal Income Tax purposes, could result in either taxable income or a deductible loss.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

SENATOR D'AMATO: It has come to my attention that the Interstate Commerce Commission (ICC) has declined to authorize an abandonment by Conrail of a 1.5 mile segment of elevated track on the West Side of Manhattan, and instead approved acquisition of the line for $10 by a nonprofit foundation.

The New York State Department of Transportation (NYS DOT) objected to the acquisition and has appealed the ICC decision to the Special Railroad Court. The NYS DOT has concluded that the foundation buying the line does not have the financial wherewithal to bring the line back into service or to demolish the deteriorating overhead structure if it cannot restore service. A group of owners of property over which the track runs (the Chealsea Property Owners) recently petitioned the ICC to reopen the proceeding to consider a substantial amount of new evidence which confirmed NYS DOT's concerns. However, ICC staff summarily rejected the property owners' petitions on the grounds that the Commission's decision is final and cannot be reopened.

I am concerned about the interests of the land owners over whose land the elevated line runs, and the effect of this decision on the Westway project. I am also concerned about the possibility that local taxpayers may eventually end up having to pay for demolishing the structure, whereas before the sale, Conrail would have had that responsibility.

I have a few questions:

1. I understand that in making applications for abandonment, Conrail is required to provide a description of the physical condition of the track which it proposes to abandon. Yet, in the case of the West Side track, Conrail did nothing to notify the ICC of the extremely deteriorated situation of the track and the elevated structure on which it runs. Is not that information critical if the ICC is to make an intelligent decision on the costs of rehabilitating the track and the ability of a purchaser to restore rail service? Doesn't Conrail have an obligation to assist the ICC by providing a realistic assessment of the physical condition of the track it asks to abandon?

2. As I understand it, at least some of the easements granted by property owners for the Conrail track obligate

Conrail, at its own expense, to remove the elevated track structures in the event of abandonment. Doesn't Conrail have an obligation to the property owners with whom it contracted to obtain those easements to make sure that anyone to whom it might sell the track has the ability to carry out the responsibilities Conrail assumed?

3. As I understand it, there is a serious question whether the West Side Development Foundation, the nonprofit corporation which seeks to acquire the elevated line, has sufficient funds and financial backing to re-institute and maintain rail service. If that turns out to be true and the Foundation cannot restore or maintain freight service, what will Conrail do to ensure that the obligation to dismantle the track and structure contained in the easements in the event of an abandonment will be fulfilled? Would requiring a bond to protect against the possible failure of the Foundation's project be an option?

4. The Foundation plans to subsidize rail freight operations by other activities such as jogging paths, refreshment stands and scenic tourists rides. Has Conrail made any effort to determine whether those activities are economically feasible or legal under the terms of the easements granted Conrail by New York City?

5. The West Side line is not the only instance of a Conrail sale of a deteriorating property that may warrant demolition. Last November, Conrail sold the railroad bridge at Poukeepsie for the sum of $1 to an anonymous group which seems to have no present plans for what to do with the bridge. In the meantime, the bridge falls down bit by bit on traffic and homes below. Don't you think that Conrail has an obligation to review the financial capabilities of people to whom it sells railroad structures to make sure they will be able either to rehabilitate the structures or to demolish them if they cannot be safely reused?

6. I understand the West Side line, which Conrail is attempting to sell, may occupy space needed for ramps for the Westway project. Has Conrail been aware of this problem? Isn't this the type of issue that Conrail has a responsibility to raise at the ICC when it attempts to sell rail property?

ANSWER: Among the more than 800 "Window II" abandonment applications filed by Conrail under Section 1156 of NERSA (45 U.S.C. Paragraph 748(c)) was a proposal to abandon the lower 1.45 miles of the West 30th Street Secondary Track in New York City, from 33rd Street to Bank Street. Under ICC guidelines, Conrail assigned a zero net liquidation value to this line because the cost of its removal was estimated to offset its gross value. West Side Rail Line Development Foundation, Inc. (West Side) filed an offer to buy the line for $10. No other offers were tendered. The ICC found West Side to be "financially responsible" and its offer to be reasonable-- both findings being prerequisites to sales under NERSA. As required by Section 1156 (and incorporated provisions of 49 U.S.C.A. Paragraph 10905(f)(2)), the ICC approved the sale, and Conrail became legally obligated to sell the line to West Side.

The New York DOT, which did not submit an offer, asked the ICC to set aside its finding as to West Side's financial responsibility. When the ICC refused this request, the DOT initiated a proceeding before the Special Court (under Section 1152 of NERSA) seeking review of the ICC's action. The named respondents are the ICC and the United States. Conrail, whose obligation (or lack of obligation) to sell the line is contingent on the Court's sustaining (or setting aside) the ICC's order, has filed a brief as amicus curiae. In its brief, Conrail does not argue for or against the ICC's finding of financial responsibility, an issue within the province of the ICC and West Side (which has intervened in the proceeding). Instead, Conrail urges support of the ICC's position and rejection of the DOT's contentions, in respect to the procedures that the ICC must follow and the criteria that must be considered when the ICC determines the financial responsibility of an offeror -- a finding that must be made within 90 days after an application is filed. Conrail argues that consideration of all the factors advocated by the DOT would render it impossible for the ICC to make the requisite findings within the extremely condensed time frame mandated by NERSA, which, in turn, would thwart the processing of all NERSA abandonments (as well as conventional abandonments in which the same issue is presented). Because the Special Court proceeding is still pending, it would be inappropriate for Conrail to comment on the issues involved, other than to call attention to the brief which it filed March 6, 1985, a copy of which is attached hereto.

With respect to the Poukeepsie Bridge, we gave the purchaser full and fair disclosure of the material elements of the bridge at the time of closing.

SPECIAL COURT
REGIONAL RAIL REORGANIZATION ACT OF 1973

STATE OF NEW YORK, DEPARTMENT OF TRANSPORTATION, Petitioner	§1152 PANEL
v.	CIVIL ACTION NO. 85-1
INTERSTATE COMMERCE COMMISSION and UNITED STATES OF AMERICA, Respondents	

PETITION TO REVIEW ORDER OF THE INTERSTATE COMMERCE COMMISSION

BRIEF OF
CONSOLIDATED RAIL CORPORATION
AMICUS CURIAE

I. CONRAIL FILES THIS BRIEF AS AMICUS CURIAE BECAUSE PETITIONER'S ARGUMENTS THREATEN TO UPSET ESTABLISHED ABANDONMENT PROCEDURES TO CONRAIL'S DETRIMENT

The State of New York Department of Transporation ("NYDOT") has petitioned for review of a decision of the Interstate Commerce Commission ("Commission") pursuant to Section 308 of the Rail Act[1] requiring Consolidated Rail Corporation ("Conrail") to sell a line of railroad slated for abandonment. Conrail is not a party respondent in this proceeding and has not sought to intervene in that capacity. The Commission and West Side Rail Line Development Foundation, Inc. ("West Side"), both of which are respondents, will present the reasons why West Side's offer to purchase the West 30th Street Branch from Conrail meets the statutory criteria.

Conrail appears as amicus curiae because NYDOT proposes that West Side's offer, and, by implication, all other offers of financial assistance for rail lines to be abandoned by Conrail

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[1] Regional Rail Reorganization Act of 1973, Pub. L. No. 93-239, as amended, §308, 45 U.S.C. §748, added by Northeast Rail Service Act of 1981 ("NERSA"), Pub. L. No. 97-35, §1156.

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and other railroads, be considered by the Commission under standards that conflict with the statutory mandate and that would thwart the fulfillment of the congressional goals. An order sustaining NYDOT's arguments would effectively nullify and render unworkable procedures enacted by Congress and implemented by the Commission respecting the abandonment of light density, deficit producing railroad lines. Such a decision would have a significant adverse impact on the commercial interests of the shipping public, Conrail, and other railroads.

In particular, NYDOT erroneously asserts that Section 308 and the provisions of 49 U.S.C. §10905 that are incorporated therein compel the Commission to consider an offeror's ability to bear or to assume speculative and contingent future expenses in determining whether the prospective purchaser is "financially responsible," and that the Commission is required to institute an extensive fact-finding procedure in making that determination.

NYDOT also erroneously contends that the Commission acted arbitrarily or capriciously in this case. While not required to do so, the Commission in its regulations has defined the elements that constitute "financial responsibility." That definition, having been promulgated by the Commission in rulemaking proceedings without challenge, is not subject to collateral attack by NYDOT. In declining to speculate on West Side's ability to bear or assume contingent future expenses and liabilities, the Commission correctly applied its own definition.

II. RECENT LEGISLATION DISCLOSES A CONGRESSIONAL INTENT TO REMOVE UNREASONABLE OBSTACLES AND DELAYS FROM THE ABANDONMENT PROCESS AND TO PRESERVE RAIL SERVICE WHERE FEASIBLE

A. Abandonment Provisions In The 4R Act And the Staggers Act

The abandonment of railroad lines has been subject to Federal regulation since 1920. In 1976 and again in 1980, however, Congress radically revised the statutes dealing with

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this matter. In both the Railroad Revitalization and Regulatory Reform Act of 1976 ("4R Act") Pub. L. No. 94-210, and the Staggers Rail Act of 1980 ("Staggers Act"), Pub. L. No. 96-448, Congress sought (as it had since 1920) to protect the shipping public from the arbitrary and unreasonable discontinuance of rail service. For the first time in the 4R Act, however, Congress established procedures under which shippers, threatened with the loss of deficit rail service, could assure continued service by purchasing lines or subsidizing their continued operation. Also, for the first time, Congress enacted provisions to protect railroads against dilatory and ponderous regulation by establishing strict and relatively short time periods within which the various steps of an abandonment proceeding must be completed. Congress acknowledged that the open-ended procedures which had governed abandonments since 1920 frequently forced railroads whose abandonment applications were ultimately approved to continue incurring enormous deficits while time-consuming administrative proceedings advanced at a leisurely pace. Thus, delays in approving applications were often as onerous and likely to result in injustice as the denial of the applications.

B. Current Statutory Requirements -- NERSA

In 1981, Congress found that even the expedited abandonment procedures enacted in 1976 and 1980 were inadequate to meet the special needs of Conrail. Legislation to correct this inadequacy and to relieve Conrail from other onerous obligations was critical to Conrail's ability to achieve Congress' primary mandate that it become a self-sustaining company. Congress' determination to remove needless regulatory impediments to achievement of this goal led to the enactment of NERSA.

Section 1156 of NERSA added Section 308 to the Rail Act for the specific purpose of facilitating abandonments by Conrail. That Section accords Conrail the right to abandon a line without demonstrating that the public convenience and necessity permits such abandonment. At the same time, Congress sought to insure continued operation of any such line, where feasible, by incorporating the financial assistance provisions of 49 U.S.C. §10905(d)-(f) which had been added by the 4R Act and the Staggers Act.[2] To permit offers of financial assistance without unduly hampering Conrail's ability to shed unprofitable lines quickly, Congress provided a summary procedure in Section 308 with rigid time constraints:

1. An interested party seeking to continue rail service by purchasing a line proposed for abandonment must submit an offer within 90 days of the filing of Conrail's application. Otherwise, the Commission must authorize the abandonment. Section 308(c)(2).

2. The Commission must decide whether an offeror is "financially responsible" and his offer "reasonable," immediately after the end of the 90-day period.[3] Because offerors may wait

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[2] Section 308 provides in pertinent part:

> (a) General. -- The Corporation may, in accordance with this section, file with the Commission an application for a certificate of abandonment for any line which is part of the system of the Corporation. Any such application shall be governed by this section and shall not, except as specifically provided in this section, be subject to the provisions of chapter 109 of title 49 United States Code . . . .
>
> (c)(2) An application for abandonment . . . shall be granted by the Commission within 90 days after the date such application is filed unless, within such 90-day period, an offer of financial assistance is made in accordance with subsection (d) of this section with respect to such line.
>
> (d) Offers of Financial Assistance. -- (1) The provisions of section 10905(d)-(f) of title 49, United States Code (including the timing requirements of subsection (d) thereof), shall apply to any offer of financial assistance. . . .

The statutory provisions incorporated by reference (hereinafter referred to as Section 10905), are set forth as Appendix A to NYDOT's brief.

[3] In the case of a conventional, non-NERSA, abandonment, this period ranges from 5 to 15 days. See Section 10905(c),(d).

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until the 90th day to submit purchase offers, literal construction of Section 308 would frequently require an instantaneous determination by the Commission on the issue of financial responsibility. In practice, such findings are usually served no later than seven days after the end of the 90-day period. Here, for example, West Side's offer was filed on June 29, 1984, one working day before the end of the 90-day period; the Commission's decision was issued on July 9, 1984. If the Commission finds the offeror financially responsible and the offer reasonable, Conrail becomes obligated to sell the line, so long as the offeror remains interested in the purchase. Section 308(c)(2),(d); Section 10905(d).

3. A responsible offeror who cannot reach an agreement with Conrail and who wants the Commission to establish the terms and conditions of the sale, must file his request within 30 days after the 90-day period following the abandonment application. Section 10905(c).

4. When setting the sale price the Commission is required to calculate the net liquidation value of the line, computed in accordance with principles set forth in Chicago & N.W. Transp. Co. v. United States, 678 F.2d 665 (7th Cir. 1982). The Commission must do so within 60 days. At West Side's request, the Commission did establish the terms and conditions of the sale, accepting the parties' agreed-upon purchase price of $10.00 based upon Conrail's estimate of a net liquidation value of zero.[4]

5. When the Commission has set the terms and conditions of the purchase, the offeror has 10 days to accept or reject it. If he accepts the Commission's decision, the sale

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[4] Portions of NYDOT's brief suggest that it takes exception to the $10 sale price ascribed to the line (NYDOT brief, pp. 19-22). Close reading of the NYDOT's argument, however, indicates that what troubles NYDOT is not that West Side may acquire the line for $10 but rather that West Side is viewed as a legitimate purchaser at any price.

must take place within 90 days (absent mutual agreement on another closing date). If he rejects the decision, the Commission must promptly approve abandonment of the line. West Side did accept the Commission's decision in this case, thereby obligating Conrail to sell the line to it. Section 10905(f)(2).

Section 308 thus represents a carefully constructed scheme whereby Congress satisfied the potentially conflicting goals of permitting Conrail to shed unprofitable lines readily and quickly while affording other parties an opportunity to continue rail service by purchasing the line. Although the Commission has a role to play in this process, the absence of authority to deny Conrail's application, coupled with the highly compressed time frame in which the Commission must render decisions when called upon to do so, evinces Congress' intent that the proceedings before the Commission be streamlined and limited in scope so as not to frustrate that section's purpose.

C. Conrail's Exercise Of The NERSA Abandonment Process Has Been Beneficial To Conrail And Has Served The Public Interest

The NERSA abandonment process has provided Conrail much-needed relief, and has played a critical role in Conrail's improved financial performance. Since the enactment of NERSA Conrail has filed more than 800 applications, proposing abandonment of more than 4,000 miles of line. Under the sale provisions of the statute, trackage serving in excess of 70 percent of the carloads affected by proposed abandonments has been sold for continued operation by short line railroads and other operators. As a result, Conrail has been able to reduce its physical plant mileage by more than 26 percent and to reduce its annual expenses by $90 million, with a less than one percent loss of traffic and a one percent loss of revenue. To have achieved these results, which are beneficial to both Conrail and its shippers, within a period of three years would have been impossible under the procedures governing line abandonments by other railroads (even as expedited by the 4R Act and the Staggers Act).

III. ARGUMENT

A. Petitioner Is Not Entitled To Relief Under The Limited Standards Of Judicial Review Prescribed By NERSA

In Section 1152 of NERSA, Congress provided that judicial review of Commission actions taken under NERSA is within the exclusive jurisdiction of this Court, but expressly limited the scope of that review as follows:

> Administrative action under the provisions or amendments made by this subtitle which is subject to review shall be upheld unless such action is found to be unlawful under standards established for review of informal agency action under paragraphs (2)(A), (B), (C) and (D) of Section 706, Title 5, United States Code. The requirements of this subtitle shall constitute the exclusive procedures required by law for such administrative action.

The incorporated provisions of the Administrative Procedure Act provide:

> The reviewing court shall . . . (2) hold unlawful and set aside agency action, findings, and conclusions found to be - -
>
> (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;
>
> (B) contrary to constitutional right, power, privilege, or immunity;
>
> (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
>
> (D) without observance of procedure required by law. . . .

5 U.S.C. §706(2)(A)-(D).

It is of particular significance that Congress did not provide for review of NERSA actions which are "(E) unsupported by substantial evidence . . . ." 5 U.S.C. §706(2)(E). This intetional exclusion is indicative of Congress' intent that Commission action under NERSA, including abandonment proceedings, not be the product of full blown evidentiary proceedings where the Commission's judgment must be based on a complete record.

Therefore, NYDOT's implicit contention that the Commission's actions in the case at hand be overturned because they are not supported by substantial evidence has no legal relevance or significance.[5] "Substantial evidence" is simply not an appropriate standard of review of the Commission's order.

The Commission's finding of financial responsibility must be upheld under Section 1152(c) of NERSA because it satisfies each of the four applicable standards of review. The Commission's finding of financial responsibility and its related actions plainly do not contravene any party's constitutional rights, privileges or immunities, nor do they exceed constitutional powers. Indeed, no party argues to the contrary. Similarly, the Commission's determinations in this case were expressly mandated by Section 1156; therefore, the Commission has not exceeded its statutory authority. Thus, the only conceivable bases to upset the Commission's decision are that it was reached without observance of required procedures or that it was arbitrary or capricious.

1. The Commission's decision comports fully with the procedures set forth in the statute and implementing regulations

The Commission observed all procedures required by law in reaching its decisions in this matter, including the decision that West Side is financially responsible. Section 308 directs the Commission to make a finding of financial responsibility, in accordance with 49 U.S.C. §10905(d)-(f). The Commission did make that finding within the time frame required by the statute.

Moreover, the Commission's decision was in full accord with its own regulations implementing the financial assistance provisions of Section 10905, promulgated pursuant to authority granted in 49 U.S.C. §10321. Those regulations, codified at 49 C.F.R. §1152.27, specifically address the issue of financial responsibility. Section 1152.27(c)(2), as amended in Abandonment of Railroad Lines and Discontinuance of Service -- Offers of Financial Assistance, 367 I.C.C. 808 (1983), provides, in relevant part:

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[5] While NYDOT's brief attacks the Commission's decision as being arbitrary and capricious, much of the argument is directed to the quality or sufficiency of the evidence on which the decision is based. This backdoor attempt to introduce a substantial evidence standard of review must fail.

> The offer [of financial assistance] must:
>
> * * *
>
> (ii) Demonstrate that the offeror is financially responsible; that is, that it has or within a reasonable time will have the financial resources to fulfill proposed contractual obligations. . . . (emphasis supplied)

In the present case, the Commission found that West Side's offer did demonstrate financial responsibility as defined in Section 1152.27(c)(2). In making that determination, the Commission correctly applied its own definition that requires only that the offeror is, or will in the near future, be able to fulfill its proposed contractual obligations. NYDOT does not suggest, as it could not, that West Side cannot meet its contractual obligation to pay Conrail the $10.00 purchase price for the line.

The regulations governing offers to purchase lines further provide for limited review by the Commission:

> Review of Offers. The Commission will review each offer submitted to determine if the offeror is a financially responsible person offering assistance that is likely to cover: . . . (2) the acquisition cost of all or any portion of the line.

49 C.F.R. §1152.27(e) (emphasis supplied). It is noteworthy that neither the regulation governing the definition of financial responsibility nor the regulation governing the Commission's review of offers addresses the offeror's ability to comply with the two-year service obligation imposed by 49 U.S.C. §10905(f)(4). That determination is to be made apart from assessing financial responsibility. The review of financial

responsibility is limited to the factor cited, namely, the ability to meet the acquisition cost. This limited scope of review is compatible with the short time period in which the finding must be made and the requirement that the information submitted to the Commission "need not be detailed," Conrail Abandonments Under NERSA, 365 I.C.C. 472, 476 (1981). These factors dictate that the finding as to financial responsibility be made in summary fashion, without an extensive fact-finding proceeding. For the Commission to make a detailed in-depth analysis of the type proposed by NYDOT would require time that is not available under the statutory scheme and would contravene the objective of Congress to hasten the abandonment and offer process.

Under the Commission's own regulations, the potential cost of removal of structures on property purchased under NERSA and other remote, speculative, unproven and contingent costs are not relevant in assessing an offeror's financial responsibility. Not only would consideration of these contingencies exceed the standard of review prescribed by the regulations, but it would address issues that are not ripe for review and may never become so. Such eventualities are too remote and speculative to be considered in a summary finding of financial responsibility.

Thus, the Commission's determination that West Side is financially responsible plainly comports with the Commission's own regulations, and the limited scope of review defined therein. To the extent NYDOT argues that the Commission should have considered other factors in assessing financial responsibility, its argument constitutes a collateral attack on the Commission's established regualtions. That attack cannot occur in the context of judicial review of a specific determination under those regulations. The Commission plainly followed the procedures set forth in 5 U.S.C. §553 in adopting regulations governing financial assistance offers, including the definition of financial responsibility and the scope of its review of such offers. Notice of the proposed rulemaking for the current regulations was published in the Federal Register. 48 Fed. Reg. 27269 (1983). Comments were received and considered by the Commission before the final rules were promulgated. Abandonment of Rail Lines and Discontinuance of Service -- Offers of Financial Assistance 367 I.C.C. 808 (1983). (No comments were filed by NYDOT. Id.) That this is the proper process for Commission rulemaking is well established. United States v. Florida East Coast Railroad Co., 410 U.S. 224 (1973); United States v. Allegheny-Ludlum Steel Corp., 406 U.S. 742 (1972).

If NYDOT or any other party was dissatisifed with the Commission's regulation at the time of promulgation, it could have filed a petition for reconsideration by the Commission within 20 days of the publication of the final decision in the Federal Register. 49 C.F.R. §1110.10. Moreover, review of the Commission's rulemaking decision was available in the federal courts of appeals. 28 U.S.C. §§2321(a), 2342(5). No such review proceedings were instituted when the Commission promulgated its regulations implementing the financial assistance provisions. Consequently, to the extent NYDOT's argument constitutes a broadside attack on the sufficiency of those regulations, its petition for review must be denied.

2. The Commission's finding of financial responsibility was reasonable, and not arbitrary or capricious

Given that the Commission's decision in this case fully comported with regulations that are not subject to challenge, NYDOT has failed to demonstrate that the Commission's finding was arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law. In making this determination the reviewing court must consider:

> whether the decision was based on the relevant factors and whether there has been a clear

> error of judgment. Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The court is not empowered to substitute its judgment for that of the agency.
>
> The final inquiry is whether the Secretary's action followed the necessary procedural requirements.

Citizens To Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416-17 (1971) (citations omitted). A reviewing court must grant deference to agency action, and that action must be upheld if supported by any rational basis. E.g., J.H. Rose Truck Line, Inc. v. I.C.C., 683 F.2d 943, 948 (5th Cir. 1982).

As discussed above, the Commission followed all the necessary procedural requirements, considered the relevant factors as defined by the statute and its own regulations, and acted within its lawful authority. The Commission's action is thus not arbitrary or capricious. To the contrary, the Commission's decision is the product of an orderly and routine application of the financial assistance process in the context of a NERSA abandonment by Conrail.

Section 1152(c) of NERSA dictates that Commission action under NERSA "must be upheld" unless it fails that section's narrow standards of judicial review. Plainly, the Commission acted properly and reasonably here and its action must be upheld. Accordingly, the petition for review must be denied.

B. The Commission's Standards And Procedures for Determining Financial Responsibility Are Consistent With And Essential To The Fulfillment Of Congress' Goals In Enacting Recent Abandonment Legislation

The Commission's decision in this matter and its general approach to determinations of financial responsibility under Section 10905 must be affirmed because that approach represents the most reasonable method for achieving the goals of Congress in recent abandonment legislation, consistent with the extremely compressed time frame within which such decisions must be made. Contrary to NYDOT's suggestion, the determination of financial responsibility cannot require an intensive evaluation of the offeror's ability to meet a host of speculative financial obligations beyond the offeror's ability to finance the purchase of the line and its two-year service obligation. If such evaluations were required, the financial assistance process would come to a virtual standstill.

1. The statutory scheme does not support the argument that the financial responsibility determination must consider an offeror's ability to meet a host of hypothetical contingencies

Nothing in the language of Section 10905, its legislative history, or cases construing the statute suggests that the financial responsibility determination was viewed by Congress as a major undertaking requiring extensive findings by the Commission in implementing the financial assistance procedures of Section 10905. Indeed, the legislative history is silent as to the genesis of the financial responsibility language in Section 10905.

Obviously, use of this term expresses a conclusion that a financially responsible purchaser is preferable to one who is not. However, the goal of Section 10905, and Section 308, is to facilitate purchases of lines otherwise to be abandoned so as to preserve rail service. Thus, sale to a purchaser who meets a minimal standard of financial responsibility is preferable to no sale at all -- and the resulting loss of service. By the same token, an offer from a party wholly lacking in financial resources could result in a delay in the abandonment process without any real hope of continued service, thereby frustrating Congress' goal of allowing expedited abandonment to assist the financial needs of rail carriers.

Thus, the primary purpose of the financial responsibility criterion is to assure that the Commission's resources and time will not be wasted, and the railroad's right to abandon a deficit line will not be delayed by frivolous offers or offers from persons whose sole objective is to protract the regulatory process and thereby forestall the day of reckoning.

The Commission's regulations fully comport with Congress' apparent intent in including the financial responsibility standard: They present a readily ascertainable threshold of financial responsibility, keyed into the obligations that the offeror agrees to assume, thereby insuring that the maximum number of offers will be accepted, while simultaneously assuming the railroad petitioning for abandonment that the offeror will be able to complete the purchase.[6]

2. Consideration of the financial impact on the offeror of remote or speculative events in assessing financial responsibility is not feasible in the time frame mandated by the statute

If, as NYDOT argues, the Commission, in addressing the issue of financial responsibility, must observe the same standards of precision and accuracy and comply with the same procedural safeguards as are required when the Commission makes findings of fact that are critical to the substantive outcome of adversarial proceedings, the Commission would face an impossible task. In NERSA proceedings the Commission, to adhere to the letter of the statute, must on the 91st day after the filing of an application decide whether any last minute offers that have been filed meet the financial responsibility and reasonableness tests. As previously stated, such offers may be filed up to, and including, the 90th day after the application. Congress cannot have intended that the Commission, when making and publishing an instantaneous assessment of offers, take into consideration all of the factors, variables and contingencies advocated by NYDOT. Even in conventional, non-NERSA, abandonments the Commission has only from 5 to 15 days to complete these steps.

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[6] Ironically, in the present case NYDOT and the intervening petitioners do not appear to argue that financial responsibility is essential to achieving the goals of Section 10905, namely the providing of an opportunity for continued service on a line which would otherwise be abandoned. In fact, petitioners acknowledge that if (as they request) the West 30th Street Secondary Track is not sold to West Side, it will be abandoned -- a result directly opposite to the objectives of Section 10905.

A decision by this Court requiring offerors to satisfy all the criteria of financial responsibility for which NYDOT argues would also have a chilling effect on all potential purchasers and would virtually nullify the financial assistance provisions of Section 10905, which are applicable not only to Conrail abandonments but also to abandonments initiated by other railroads throughout the country. In the context of a Conrail abandonment under Section 308, a potential offeror will have, at a maximum, 180 days from Conrail's filing of a notice of insufficient revenue to consider whether to make an offer, to obtain the necessary financing and to prepare and present the offer to the Commission. In that compressed time frame, few offerors could even assess the existence and cost of contingent obligations, let alone demonstrate possession of, or access to, funds sufficient to cover all the remote, hypothetical, and speculative obligations NYDOT asks the Commission to anticipate in determining financial responsibility.

3. The contingencies that NYDOT seeks to include in the financial responsibility determination can, and appropriately should, be considered in other contexts

In any event, the financial responsibility determination is simply not the appropriate point in the regulatory process to consider the contingencies that NYDOT raises. The principal concern of NYDOT appears to be that, if the West 30th Street Secondary Track is sold to West Side and if West Side thereafter defaults in its statutory obligation to provide common carrier rail service, 49 U.S.C. §10905(e), the elevated structure upon which the line is located will be left in place and become a public nuisance. NYDOT ignores, however, that West Side, by law, must provide service and may not discontinue doing so without approval of the Commission under 49 U.S.C. §10903 et seq. (the statute governing conventional abandonments). Accordingly, NYDOT's concern is premature. Moreover, if this fear should materialize in the future, affected parties can seek redress under relevant state and federal statutes relating to the environment, land use, zoning, etc. The possible impact of a line abandonment upon the neighborhood through which it passes is not a matter over which the Commission has jurisdiction in a NERSA proceeding and is not a factor which has any bearing on proceedings under Section 10905.

NYDOT also raises the spectre that Conrail might abandon the line with which the West 30th Street Secondary Track connects, thereby precluding West Side from fulfilling its service obligation. Of course, this contingency has nothing to do with West Side's financial responsibility and is therefore not relevant to the Commission's decision. Moreover, the possibility of future abandonments is always present, but the Commission's decision must be based on the state of affairs existing at the time of its decision.

NYDOT's argument that a purchaser must demonstrate that it now has, or will have access to, funds sufficient to cover the possible demolition and dismantling of the line at an indefinite date in the future is equally untenable. No evidence has been submitted, and no finding has been made that such an obligation will, or might, arise. Moreover, no legl authority hs been cited to suggest an obligation on the part of the Commission to consider such hypothetical concerns, and the Commission's refusal to insist on this showing by West Side is entirely consistent with its own decisions.

In a 1982 decision under Section 10905, to which NYDOT was a party, the Commission rejected that agency's contention that Conrail, following abandonment, would be required to remove a bridge carrying the railroad over a river. Said the Commission: "Because NYDOT has not presented evidence to establish that . . . [the government] will require removal or repair of the bridge, we will not accept NYDOT's argument or its cost figures." Conrail Abandonment of Tonawanda Island Branch, Docket No. AB-167 (Sub No. 216N) (served May 21, 1982).

NYDOT, citing numerous Commission decisions, characterizes the determination that the net liquidation value ("NLV") of the West 30th Street Secondary Track is zero as "not altogether correct." (NYDOT brief, p. 19). NYDOT's description of the manner in which NLV is calculated, however, is _also_ "not altogether correct," because it omits reference to Commission decisions which have held that the law does not contemplate a _negative_ NLV, contrary to NYDOT's assertion on page 22 of its brief. In _Conrail Abandonment between North Thatcher and Sanman IN_, Docket No. AB-167 (Sub-Nos. 119N and 197N) (served May 21, 1982) the Commission stated:

> Finally, even if we could find the bridges to be a nuisance and hazard and thus subject to removal after abandonment, we would be reluctant to assess a negative NLV in an offer of financial assistance proceeding. In one of the landmark decisions concerning the question of valuation of rail properties, the Special Court created by the Regional Rail Reorganization Act of 1973 noted that "substantial proof will be required to convince us of the propriety of deductions for 'negative value.' _Matter of Val. Pro., Etc., Reg. Rail Reorg._, 445 F.Supp. 994, 1029 n.47 (1977). Indeed, the Special Court suggested, and we agree, that a "manifestly unfair result" should not be permitted based merely upon "the sterile logic of provable market value." _Id._ at 1029.
>
> Although we believe the fair market value in Section 10905 proceedings is NLV for best and highest non-rail use, we will not accept a negative NLV figure which is inherently unfair. Conrail concedes that the bridges have no value to it even as scrap. _See_ Position Statement of Conrail at 22. Therefore, we will assign a zero value for these properties.

_Id._, slip opinion at 9. Just as a negative NLV is inappropriate for determining the price to be paid to Conrail under the financial assistance provisions, it is inappropriate for setting the amount of resources that must be available to an offeror before it can be found financially responsible.

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4. Precedent supports the Commission's limited scope of review in determining financial responsibility

The Commission's refusal to consider the cost of hypothetical contingencies in assessing financial responsibility is also consistent with other statutes and decisions. The term "financial responsibility" appears in at least two other statutes applicable to Conrail, namely Section 304 of the Rail Act, governing the continued operation on, or discontinuance of, lines that were not conveyed to Conrail in 1976, and 49 U.S.C. Section 10910, the "Feeder Branch Line Development" statute. Section 10910, unlike Section 10905 (or Section 304), actually defines the term "financially responsible person." Specifically, it is one who "(A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure adequate transportation will be provided over such line for a period of not less than 3 years. . . ." Thus, like the Commission's regulations and its decision here, Section 10910 does not condition financial responsibility on the purchaser's present financial ability to cope with potential, but unrealized, contingencies.

Similarly, in a decision in which the financial abilities and capacity of a government contractor were at issue, the Court of Claims stated:

> [F]inancial ability to perform a government contract does not mean that the contractor must have on hand adequate cash to pay for the entire cost of performance. Nor can we require the small government contractor to have at its disposal the same financial resources as the giant industrial institution. We think the contractor must have available at the time of the contract award reasonable financial resources in the light of business custom and practice either on hand or through its customary lines of credit, to finance the expected cost of production.

Litchfield Mfg. Corp. v. United States, 338 F.2d 94, 98 (Ct. Cl. 1964). The NYDOT position is thus incompatible with Congressional intent and past precedent as to the substance of the "financially responsible" standard. The question of whether an offeror may or may not, at some indefinite future time, be capable of responding to a variety of contingent and theoretical obligations is not susceptible (or needing) of resolution in the summary, expedited, and informal proceeding mandated by Congress under Section 10905 and Section 308.

IV. CONCLUSION

In sum, the financial responsibility determination in an abandonment proceeding cannot be made to carry the baggage that NYDOT proposes. If Congress had intended that the Commission make findings on such questions, as a prerequisite to further proceedings under Section 10905, Congress would have established appropriate fact-finding procedures governing the resolution of these questions. Instead, Congress enacted a summary procedure intended to insure that the maximum number of offers of financial assistance would be approved, so as to permit continued rail service, while preventing parties from making frivolous offers calculated to delay and frustrate legitimate abandonment efforts by rail carriers. Congress did not intend the Commission's assessment of financial responsibility to be based on such complicated, time-consuming and hypothetical considerations as the offeror's ability to deal with future contingencies, and the Commission's procedures, generally and in the context of this case, comport with that intent. Accordingly, NYDOT's petition for review must be denied.

Respectfully submitted,

THOMAS E. ZEMAITIS
Pepper, Hamilton & Scheetz
2001 The Fidelity Building
123 South Broad Street
Philadelphia, PA 19109
(215) 893-3000

CHARLES E. MECHEM
Consolidated Rail Corporation
1138 Six Penn Center Plaza
Philadelphia, PA 19103

Attorneys for
CONSOLIDATED RAIL CORPORATION

OFFICE OF THE SECRETARY

QUESTIONS SUBMITTED BY SENATOR ANDREWS

TRANSPORTATION POLICY

SENATOR ANDREWS: As the Secretary continues her stewardship in the second Reagan Administration, what comprehensive national transportation policy goals and objectives are being revised? When will a national transportation policy document next be published?

ANSWER: The Secretary has made her objectives abundantly clear in her public statements and in her legislative program. Her major goals are:

- -- Making safety the top priority in the Department.
- -- Continuation of transportation deregulation.
- -- Return of Conrail to the private sector.
- -- Promoting the commercial exploitation of space.
- -- Protection of people and the environment from harmful effects of transportation while encouraging an increase in the responsibility of the private sector.
- -- The withdrawal of subsidy, and the recovery of federal program costs from users.
- -- Decision making in a marketplace framework whenever possible.

The general transportation goals and objectives of the Administration are conveyed to Congress and to the public each year in a broad range of statements, addresses and transmittals, and most certainly in the President's Budget documents (especially this year, in the Budget's Part 5 entitled "Meeting National Needs: The Federal Program By Function").

The Department does not intend to issue a separate statement of National Transportation Policy.

SENATOR ANDREWS: As a result of modal administrators' concern over the time it takes the Office of the Secretary for policy and regulatory clearances, what procedural changes were put in place?

ANSWER: Existing procedures in the Office of the Secretary (OST) require very quick review of regulatory documents and OST does complete its review within a reasonably short time frame. OST also makes every effort to accommodate requests from the modal administrators for expedited handling of particular rulemaking documents; in appropriate circumstances, OST will simply shorten the normal review period. In response to the concerns of the modal administrations, OST has suggested that the modal administrations use a variety of alternative methods for expediting review. For example, prior to submitting the formal document for review, the modal administrations can provide OST with preliminary drafts of the rulemaking documents or it can provide briefings to appropriate OST staff during the development of the rulemaking document, which in some cases could take several years.

SENATOR ANDREWS: Provide for the record a list or brief description of all significant rulemakings pending in Office of the Secretary (OST) and Office of Management and Budget (OMB), indicating date of submission from modes.

ANSWER: Attached are two lists that provide the information requested. They are current as of April 10, 1985.

It should be noted that OST and OMB may request additional information or substantive or editorial changes to the rulemaking documents or associated analysis from the operating administration. Therefore, much of the time needed to complete OST or OMB review may be used by the operating administration to gather required information or make essential changes.
The lists do not include rulemakings in which the operating administrations are currently preparing revisions at OST or OMB request.

DOT SIGNIFICANT RULEMAKING DOCUMENTS PENDING OMB APPROVAL

Name	**Submitted To OMB**	**Submitted To OST**
Federal Aviation Administration		
Ultralights (Notice of Policy)	4-03-85	01/85
National Highway Traffic Safety Administration		
National Minimum Drinking Age (NPRM)*	11-14-84	8-30-84
Performance Standards and Criteria for Selection of Covered Vehicles and Replacement Parts - Motor Vehicle Theft Law Enforcement Act of 1984 (NPRM)	3-12-85	1-24-85
Office of the Secretary of Transportation		
Construction Differential Subsidy Repayment: Total Payment Policy (FR)*	5-14-84	5-00-84

* "FR" designates a final rule
"NPRM" designates a notice of proposed rulemaking

SIGNIFICANT RULEMAKING DOCUMENTS PENDING IN OST

NAME	LATEST DRAFT RECEIVED
Federal Aviation Administration	
Certification of Student Recreational, Recreational, Student Private and Private Pilots (NPRM)	3-22-85
Flight Recorders and Cockpit Voice Recorders (Reopen Comment Period)	4-04-85
Maritime Administration	
ANPRM-CDS Vessel Participation in the Carriage of Oil from Alaska in the Domestic Trade	12-07-84
NPRM-Determination of Fair and Reasonable Rates for the Carriage of Bulk Preference Cargos	3-26-85
NPRM-Award and Administration of Operating-Differential Subsidy (ODS) for Dry Bulk Cargo Vessels (Withdrawal of NPRM)	3-00-85
Procedures for Formal Review by the Secretary of Transportation of Actions of the Maritime Subsidy Board (FR and Request for Comment)	3-27-85
National Highway Traffic Safety Administration	
Standard 208, Occupant Crash Protection - Response to Petitions for Reconsideration	3-25-85
Office of Commercial Space Transportation	
ANPRM-Commerical Space Transportation, Third-Party Liability Insurance for Commerical Space Launch Activities	3-20-85
US Coast Guard	
Licensing of Pilots and Manning of Vessels (FR/NPRM)	4-04-85
Vital Systems Automation (NPRM)	2-21-85

OFFICE OF MANAGEMENT AND BUDGET REGULATORY ROLE

SENATOR ANDREWS: OMB, we understand, issued an Executive Order in January 1985 that broadened its role with regard to clearance and early review of regulations. What changes in the Department of Transportation (DOT) regulatory policy will this bring about? Will OMB be able to influence the regulatory process without such involvement being catalogued for the public docket?

ANSWER: The only changes in Departmental policy relate to the preparation of the Regulatory Program required under Executive Order 12498 and the handling of significant rulemaking actions that were not listed in the Program.

Through its internal Regulatory Policies and Procedures, the Department's policy officials have always played a major role in developing the Department's regulatory program. Executive Order 12498 will bring more formality to this process through the Department's preparation of the Program and its review by Departmental officials.

If a need for a particular significant rulemaking action that is not listed in the regulatory program arises during the year covered by that program, the Department would be required to obtain OMB approval to amend the regulatory program.

OMB would be able to request changes in the regulatory process without that request being entered in the public docket. This is, however, not different from current practice concerning discussion of rulemakings within the Executive Branch. We also expect OMB to continue its established practice of providing an agency with any factual data it has obtained concerning a particular rulemaking for submission to the public docket.

SENATOR ANDREWS: Currently OMB reviews notices of proposed rulemaking (NPRM) and final rules. Will they now review advance NPRMs?

ANSWER: OMB will only review significant advance NPRMs that were not listed and described in the Department's Regulatory Program.

SENATOR ANDREWS: Will low-level career employees of OMB be able to overrule DOT policy officials on regulatory matters?

ANSWER: Under the Executive Order, even the Director of OMB cannot overrule a decision of DOT policy officials. If there is a disagreement between OMB and the Department, the head of the Department or the Director of OMB may raise the matter to the President or such appropriate Cabinet Council or other forum as the President designates.

SENATOR ANDREWS: Has OST sought exemption from OMB's broadened regulatory review? If so, were exemptions granted or denied: In what areas and on what grounds?

ANSWER: OST has sought no exemption from OMB's regulatory review authority under Executive Order 12498.

TIMELINESS OF REPORTS

SENATOR ANDREWS: This Committee was urged, in the strongest possible terms, by officials from the Secretary on down to expedite release of the FY 1985 passive restraint funds. The Secretary's hearing to address the issue was held February 21, 1985. However, answers to the Subcommittee's questions on the passive restraint initiative were finally received from NHTSA this week. Where does the solution lie to better coordination between Office of the Secretary (OST) and the modes on important initiatives such as this?

ANSWER: The responses to questions on the passive restraint issue delivered by NHTSA the week of April 1st were associated with the hearing on NHTSA's FY 1986 budget request held on February 28. The Committee has traditionally dealt directly with modal administrations on transcripts where an Administrator is the principal witness. The Office of the Secretary on occasion reviews information to be provided for the record to insure consistency with DOT policy, and intercedes on request of committee staff where there are undue delays. In this case none of the delay in response was attributable to OST review, and the NHTSA transcript was completed within a very few days after the problem was bought to OST attention by subcommittee staff. A contributing factor in the delay was the fact that NHTSA was dealing simultaneously with lengthy transcripts from three separate hearings held in the same week, requiring cross-checking on all answers to insure consistency.

SENATOR ANDREWS: Assistant Secretary Derman testified last year before the House that "the complexity of the coordination process...is something we need to focus on." What has been done to make improvements in this area?

ANSWER: In response to committee concern over late reports expressed at FY 1985 hearings, the Assistant Secretary for Budget and Programs issued a notice on behalf of the Secretary emphasizing the importance of both quality and timeliness in reports to the committees. In August, 1984, a notice was issued setting target dates for report completion to permit adequate time for review prior to committee deadlines, and an automated follow-up report was instituted, copies of which have periodically been provided to subcommittee staff. Based on eight months experience, we find that we have better control on report status, but much remains to be done on motivating program managers to meet intermediate deadlines and to delegate signing authority for reports not involving policy judgements. The Deputy Secretary has taken a personal interest in the problem and has recently assigned a special assistant additional duties as expediter of all reports requiring Secretarial clearance. We believe that this leverage, combined with continuation of our follow-up system will result in further improvements in the coming year.

TRANSIT REPROGRAMMINGS

SENATOR ANDREWS: At the Secretary's Overview Hearing on Februay 21, Assistant Secretary Derman indicated that the Committee would receive a FY 1985 reprogramming request for transit capital funds identified in the FY 1985 Conference Report. What is the status of that reprogramming?

ANSWER: I plan to have the Urban Mass Transportation Administration submit to this Committee, and to House Appropriations, a reprogramming request to apply New Starts funding to Rail Mod and Bus projects. My intent is to transmit a reprogramming action to the Hill by the end of April.

(CLERK'S NOTE.—The requested information was not received by the end of April.)

SENATOR ANDREWS: How much of the $1.12 billion FY 1985 obligational authority has been released to date?

ANSWER: As of March 31, 1985, a total of $77 million has been obligated.

SENATOR ANDREWS: Has the Office of the Secretary changed position from last year? (House testimony as follows: Mr. Derman: "I agree...that in the future... we will respond positively to all Congressional earmarks." Mr. Coughlin: "Can you assure us categorically that this will not happen again...for any earmarks this Committee is a party to?" Mr. Derman: "I think I just did, Mr. Chairman.")

ANSWER: The colloquy cited was in the context of whether DOT would utilize the reprogramming process. The responses given continue to represent the position of the Office of the Secretary.

TRANSIT LEGISLATION

SENATOR ANDREWS: The Senate-reported budget resolution reconciles the Senate Banking Committee to achieve transit cuts in FY 1986 of 25 percent. What is the status of the Department's "one-year bill" to implement the President's budget proposal to convert the trust fund to a formula program?

ANSWER: We plan to submit that bill to Congress very soon.

SENATOR ANDREWS: Does the delay in the Department's legislative submision suggest support for the Senate Budget Committee compromise?

ANSWER: We are not at this point taking any action to implement the Senate Budget Committee compromise. We are proceeding with legislative proposals in support of the FY 1986 Budget. The Budget

Committee compromise was agreed to by the Administration as a package. The individual elements which are over the budget, including a substantial increase in transit, are dependent on acceptance of the total package and cannot be supported in isolation. At such time as the package may be accepted, we would make any necessary adjustments in our proposals.

SENATOR ANDREWS: What is the status of legislation to merge the highway and transit transfer programs?

ANSWER: The Secretary submitted a draft bill entitled "The Fiscal Year 1986 Amendments Act" to the Congress on April 1. That bill would, among other things, make Interstate Transfer funds authorized from the Highway Trust Fund in 1986 available for both highway and transit substitute projects. The bill has been introduced in the Senate as S. 927.

We believe substitute projects -- whether highway or transit -- should be funded from the Highway Trust Fund since they are substitutes for withdrawn Interstate segments which would have been funded from the Trust Fund except that State and local officials decided these substitute projects could better serve local transportation needs.

ESSENTIAL AIR SERVICE PERSONNEL

SENATOR ANDREWS: The Budget proposed no funds for staff to support the Essential Air Service (EAS) program. How many staff transferred on January 1 from the Civil Aeronautics Board (CAB)? How many staff will be in place at the end of FY 1985? Will any staff be required for phase-out operations? What is your best estimate of the personnel and support costs for this function in FY 1986 if Congress does not amend the 1978 Deregulation Act?

ANSWER: Among the 305 employees who transferred from CAB to the Department of Transportation, we estimate that 79 were associated with the Essential Air Services function as follows:

Office of the Secretary (S&E)	54
Office of the Secretary (WCF)	3
Office of the Inspector General	9
Research and Special Programs Admin.	13
Total EAS	79

We expect the same total number to be on board at the end of FY 1985, perhaps with some attrition in RSPA offset by additional hiring by Inspector General.

The proposed FY 1986 termination allows for some phase-out staff. In OST five people will stay all year and the rest will stay for an average of three months. The Inspector General staff will stay for an average of six months, and RSPA for an average of three months.

The additional unbudgeted cost of retaining these staffs through FY 1986 would be $1.8 million for OST,

$310 thousand for the Inspector General and $362 thousands for RSPA.

ESSENTIAL AIR SERVICE SUBSIDIES

SENATOR ANDREWS: Congress provided $52 million for essential air service subsidies. What actual obligations are estimated for FY 1985? In the event the program is continued, what is the estimated budget authority necessary in FY 1986?

ANSWER: For FY 1985 actual obligations are estimated to be around $45.5 million, which includes $4.4 million for a settlement of a prior year claim. In addition, a potential tax settlement in a prior year claim could add up to another $1 million to obligations.

If the program is continued in FY 1986, $38 to $40 million in budget authority is estimated to be an adequate level.

SENATOR ANDREWS: How many communities receiving a subsidy under the EAS last year have attained subsidy-free status?

ANSWER: Eight points were removed from the subsidy list between January 1984 and March 1985. These are Chico, California; Elko, Nevada; North Bend, Oregon; Prescott, Arizona; Roswell, New Mexico; Stillwater, Oklahoma; Waycross, Georgia; and Wenatchee, Washington. Waycross is not presently receiving air service.

SENATOR ANDREWS: How many communities would lose service without the EAS?

ANSWER: 104 communities in the 49 states excluding Alaska are receiving subsidized air service. 87 of these communities would be likely to lose all air service without the EAS program. However, most of these communities are either enplaning low levels of traffic (30 enplane fewer than 5 passengers per day and 39 enplane between 5 and 10 passengers per day) or are located within a reasonable driving distance to alternative air transportation centers. The 17 communities that would probably retain air service are either already receiving service in excess of the level we are subsidizing or enplaning sufficient traffic to maintain some level of service on their own. In Alaska, we are subsidizing service to 40 communities under section 419 rates. Five of these communities are receiving subsidized jet service and would continue to receive scheduled service, although perhaps with smaller equipment. Almost all of the remaining subsidized communities would also continue to receive air service, although perhaps air taxi or flag-stop service rather than scheduled commuter carrier service. Only a couple of isolated, island communities would probably lose all service, but the state should be able to address those needs.

SENATOR ANDREWS: Do you foresee any reversal in the trend for major airlines to withdraw from less dense markets?

ANSWER: We do not believe that the trend of the major airlines to withdraw from less dense markets will be reversed. After the enactment of the Airline Deregulation Act of 1978 (ADA), and, more specifically, after the Civil Aeronautics

Board's authority over route matters expired on December 31, 1981, many of the larger airlines began to realign their route structures to increase their operating efficiency and to better position themselves in the more competitive environment. In fact, Congress anticipated such action on the part of the major airlines and enacted the small communities air service provisions of the ADA to protect service to those smaller communities.

SENATOR ANDREWS: Is there any evidence that commuter airlines provide less costly or more convenient service than the major carriers?

ANSWER: In general, it is less costly for a commuter airline to provide service than a major airline. This can be attributed to operating differences between the two types of airlines. Lower costs for commuter airlines result from lower operating costs for smaller aircraft (lower fuel and maintenance expenses, lower capital costs, lower landing fees, lower flight crew and cabin attendant expenses) and from lower systemwide expenses (e.g. fixed costs).

The nature of commuter operations (100 to 150 mile turnaround flights) makes it possible for these carriers to provide greater flight frequencies and to adjust their scheduling patterns more easily.

SENATOR ANDREWS: Do you foresee any reversal in the trend for smaller aircraft to be introduced into less heavily travelled markets?

ANSWER: We do not foresee the increased usage of smaller aircraft in less-dense markets being reversed. This is because smaller aircraft are ideally matched to the level of traffic demand in these less-dense markets. Moreover, smaller aircraft are more cost-effective to operate, and the nature of their operations allows the operator to offer passengers an increased number of flights.

After deregulation, one of the related problems that has been encountered in small markets is slow passenger acceptance of small aircraft. This development was expected, since passengers in these markets had become accustomed to the larger turboprop or jet equipment. We believe these attitudes are changing as the travelling public becomes increasingly aware of this growing segment of the airline industry. In fact, passenger enplanements for the small aircraft operators as a group have more than tripled since 1975, and some airline analysts are predicting annual average growth rates in excess of 10 percent for the next several years. Additionally, the average size of small aircraft has been increasing, and is projected to continue to increase as aircraft with more than 20 seats become the major component of small carriers' fleets.

PEAK/OFF PEAK FARES

SENATOR ANDREWS: Why haven't the airlines made more extensive use of peak/off peak fares to reduce congestion at hub airports during heavily traveled periods of the day?

ANSWER: Airlines have little incentive to use peak/off-peak fares because they are not currently charged a landing fee which reflects the delay cost they impose upon other carriers and passengers. If one carrier moves to the off-peak, it reduces its own delay costs but it also reduces the delay costs to those carriers which choose to operate during the peak period as well. Some airlines currently use off-peak fares, but, presumably, these fares are used to attract passengers to off-peak flights, not to reduce airspace congestion. As with any business, airlines set fares at the point where they maximize profits. If peak fees are set so that airlines have an economic incentive to shift flights to off-peak periods, then they will.

SENATOR ANDREWS: What can the Department of Transportation (DOT) do to encourage use of peak load pricing to reduce airport congestion?

ANSWER: DOT should encourage airports to try peak-period fees, and should work with them to establish appropriate fee structures. Federal subsidies for airport expansion could be tied to the usage of peak-period landing fees. If current capacity is not used efficiently, then the taxpayers should not pay for an expansion in capacity. If appropriate fee structures are established, the actual landing costs, including delay costs, will be reflected in airline ticket prices.

NATIONAL AIRSPACE PLAN

SENATOR ANDREWS: When will Congress receive this year's update on the National Airspace (NAS) Plan and backup funding assumptions? What major revisions does it contain?

ANSWER: The NAS Plan will be delivered to both houses of Congress during the week of April 8. Major revisions to this year's update are:

(1) The executive summary and overview have been rewritten to clarify the goals and objectives of the Plan and to outline accomplishments to date.

(2) All projects have been updated to reflect current program schedules.

(3) Discussions of project status and program relationships have been added to the front of each chapter.

(4) Four new projects were added to reflect new requirements that fall within the framework of the NAS Plan. These are:

a. Offshore Flight Data Processing System (OFDPS). Replaces the outmoded and unmaintainable system at the Honolulu, Hawaii, Air Route Traffic Control Center (ARTCC).

b. Sustain the New York TRACON. Provides hardware and software system improvements to enable this facility to accommodate increased air traffic loads until the Advanced Automation System under the Area Control Facility concept is implemented.

c. LORAN C Systems. Provides additional Loran C transmitting stations to fill the mid-continent "gap" and adds monitors to permit increased use of LORAN C as a supplemental navigation system.

d. Long-Range Radar Replacement. Provides replacement of obsolete en route primary radar equipment in the late-1990's.

(5) The projects for early combination of Radar Approach Control in ARTCC and establishment of multiple Central Repair Facilities (CRF) have been deleted because these projects were shown not to be cost-effective.

SENATOR ANDREWS: We understand the President's outyear budget numbers for each fiscal year through FY 1990 are $1.164 billion but the NAS Plan assumptions do not match. What is the extent of this mismatch in dollars and programs for FY 1987 - 1990?

ANSWER: The lower level outyear numbers are based upon budget considerations and reflect estimates that do not necessarily reflect the requirements necessary to achieve the goals of the plan. The current version of the NAS Plan is based upon the resources required to achieve its goals within the planned timeframe. The differential in FY 1987, 1988, 1989, and 1999 is $266 million per year.

SENATOR ANDREWS: We understand the President's outyear budget numbers for each fiscal year through FY 1990 are $1.164 billion but the NAS Plan assumptions do not match. What is the extent of this mismatch in dollars and programs for FY 1987 - 1990?

ANSWER: (Dollars in millions)

	1987	1988	1989	1990
NAS Plan	$1,430	$1,430	$1,430	$1,430
Budget Estimate	1,164	1,164	1,164	1,164

SENATOR ANDREWS: What specific programmatic adjustments are being made to the NAS Plan to address this issue? (FY 1987 planning numbers are received from OMB in the FY 1986 passback).

ANSWER: The lower level out-year numbers are based upon budget considerations and reflect estimates that do not necessarily reflect the requirements necessary to achieve the goals of the plan within the planned timeframe and costs. No specific adjustments have been made to match the NAS Plan to the lower level budget out-year estimates.

SENATOR ANDREWS: What is the status of work on the legislation to reauthorize the Aviation Trust Fund? When will this legislation be introduced?

ANSWER: The Federal Aviation Administration is studying the many issues involved in development of appropriate Aviation Trust Fund legislation. Following complete coordination of a draft proposal within the Administration, the Department's legislative recommendations for authorizations and related matters will be transmitted to Congress. This transmittal will be made well in advance of the expiration of the current legislation in Fiscal Year 1988.

SENATOR ANDREWS: Since the Senate-reported budget resolution reconciles the Commerce Committee to reduce the aviation trust fund levels to match the President's budget request, shouldn't the Department expedite its review of the trust funds? Will the legislation assume decreased aviation taxes to better match reduced Federal Aviation Administration (FAA) spending to date and lowered outyear budget projections?

ANSWER: We do not believe we should expedite the process for preparing legislation to extend the Airport and Airway Improvement Act of 1982. Changes to the Trust Fund are just one component of the overall review necessary to draft new legislation. With many projects in the National Airspace Plan in the beginning contract stage, we would benefit by further experience as we project development plans for the years after 1988. Overall, the entire legislative proposal will be improved by spending the necessary time to give the many components a thorough review.

At this time, we don't believe the aviation taxes should be reduced. We will be studying this issue as we develop proposed legislation and any recommendation for change will be contained in that proposal.

AVIATION SAFETY

SENATOR ANDREWS: According to Federal Aviation Administration's (FAAs) 1983 report on airline deregulation, the reduced aviation inspector staffing level was adequate to maintain safety. In the fall of 1983, however, hearings were held and a 25 percent staffing increase was recommended and implemented by Secretary Dole in 1984. At the same time, the Secretary directed FAA to increase the number and frequency of air carrier inspections. FAA did so and conducted an in-depth study that raised concerns about safety conditions in the industry as well as the ability of FAA's inspection program to enforce safety compliance. FAA recently indicated that it was uncertain how many inspectors it actually needs. Does OST require FAA to establish and apply workload or staffing standards to determine and justify their inspection resource needs? Is this review conducted as part of the budget process?

ANSWER: It is the policy of the Department to use approved staffing standards for the development of human resource requirements. Recently, the FAA issued revised staffing standards (Jan.15, 1985) for Flight Standards field regulatory programs. These standards have been designed to: (1) provide staffing guidance that can be directly related to workload; (2) reflect the changes in work program emphasis since previous standards were developed; and (3) satisfy a commitment to the General Accounting Office to revise staffing standards in this area. These standards will become an integral part of the FY 1987 budget review process.

SENATOR ANDREWS: Why was FAA's inspection force cut in 1981, represented as "adequate" by FAA in 1983, and then increased in 1984? Did OST conduct any analyses of the 1981 reduction's impact on the inspection program and air carrier safety? More generally, does OST independently analyze the impact of major resource changes, or does it rely on the judgements of the modal administrations?

ANSWER: On November 10, 1983, Mr. Helms, then the Administrator of FAA, addressed the House Committee on Public Works and Transportation,Committee on Aviation, concerning the air carrier inspector staffing. At that time the FAA believed that through several initiatives then in place, i.e., data automation, consolidation of field facilities, cross-training and utilization of the inspector work force would increase productivity which would offset the budget reductions of FY 1981.

Our expectations were overly optimistic and the impact of deregulation continued to heavily influence the workload requirements. OST determined that the changes experienced in the industry in the last few years demanded a restoration of the previous reductions in air carrier field inspector staffing. The OST does rely heavily on the modal administrations where the expertise lies, however, critical analyses of major program changes is also performed at the department level.

COMPUTER RESERVATION SYSTEMS

SENATOR ANDREWS: It was recently announced that TWA, United, and American will eliminate from their computer reservation systems display bias toward their own flights. While this may represent a solution to the alleged bias in these systems, what further corrections need to be made? Will DOT recommend or support legislation requiring divestiture, or will a regulatory proceeding be initiated?

ANSWER: In addition to the problem of secondary display bias which has been resolved by an agreement between the Department of Transportation and the vendors of computer reservation systems (CRS) to eliminate their secondary displays, participating carriers have alleged the existence of the following problems: (1) booking fees are unreasonably high and unsupported by documentation of costs; (2) the timeliness and accuracy of data entry for participating carriers are inferior to those of data entry for vendors; (3) the marketing data supplied to participating carriers are more costly and less timely and useful than those available to vendors; (4) the vendors receive prior notice of price and service initiatives of participating carriers, while the latter receive no comparable notice on vendor initiatives; (5) the primary displays still have bias; and (6) the subscribing agents may be induced to prefer bookings on their vendor, and the vendor can reinforce this preference through current information on the agents' performance.

DOT is not yet in a position to assess the validity of these allegations. In view of the brief period the CRS rules have been in effect, we believe that additional time is necessary to monitor the evolution of CRS market performance. Nevertheless, we regard these issues as serious and intend to cooperate to the extent possible in the Department of Justice's continuing investigation, besides remaining receptive to any further information brought forward by participating carriers.

We believe that either divestiture or new regulatory proceedings would be premature. Both of these options would entail extensive costs and delays and uncertain consequences. Since we do not yet know all of the effects of the present rules, the nature of an improved regulatory regime is unclear; therefore, regulatory intervention is likely to require a protracted series of corrections and revisions.

WASHINGTON AIRPORTS

SENATOR ANDREWS: In response to a question for the Secretary's February 21 hearing, the Subcommittee was informed that legislation to effect the transfer of Washington National and Dulles Airports would reach Congress by mid-March. What is the current status?

ANSWER: Legislation transferring National and Dulles Airports to an independent airport authority is currently being reviewed within the Administration.

(NOTE: The legislation was forwarded to Congress on April 22, 1985.)

SENATOR ANDREWS: Have the lease terms been settled? What response has the Department given to the Air Transport Association proposal to support legislation subject to clarification on the number of operations, passenger cap and stage III aircraft ("quiet" late flights) restrictions?

ANSWER: We now propose a lease of 35 years. The lease would include commitments that the authority meet the standards recommended by the Holton Commission. For example, the authority would have to be independent of the jurisdictions that create it, would be obliged to retain all present employees of the Metropolitan Washington Airports, could only operate the two airports, and would continue to operate both airports. Lease payments would recover, with interest, all past appropriations for both operations and capital improvements that have not already been reimbursed to the Treasury through airport revenues.

We have not included the Air Transport Association's reservations in our proposed legislation. We would not object to a clarification of the slot freeze, although we do not believe it is necessary. We do not see any need for a prohibition against imposing a passenger cap, as one could not be implemented without a reduction in operations, which would be precluded by the slot freeze. With respect to night flights, we have proposed freezing the noise level standards, but would not object to turning the issue over to the new authority.

SENATOR ANDREWS: We understand that lease payments will cover recovery of initial federal capital investments (approximately $40 million), and full pension liability of federal employees (approximately $30 million). However, the value of both airports undoubtedly approaches the $5 billion mark. (New Denver airport will cost $3 billion). How does this divestiture represent an adequate return to the federal government?

ANSWER: Lease payments would complete recovery of the federal investment in the airports. $46 million represents the federal investment, plus interest, that has not already been repaid to the Treasury out of airport revenues. We do not know where a $5 billion value for the airport could have come from, unless based on some replacement cost estimate. In any event, we do not propose to sell the airports; we propose to transfer them to a new authority. In doing so, we are recovering virtually every dollar the government has put into them, with interest, as if the funds had been loaned to the airports instead of directly appropriated for capital improvements. In addition, our proposal would relieve the Treasury of between $33 and $37 million in unfunded pension liability.

The Metropolitan Washington Airports have already been paid for from revenues paid by airport users through air carrier fees and leases, and concession revenues, much as the new Denver airport will be in the future. We do not believe it fair to the passengers to require them to pay once again, through the carriers and concessionaires, just because the airports have changed hands. If we proposed to dispose of the airport properties without restrictions, and did not require that airports be operated on them, then we would seek the greatest price for the property. I can assure you that under such circumstances the land would not be used for airports. Instead, we are transferring the properties with the requirement that they be operated as airports, and that their revenues be devoted to operating and improving the airports. With those conditions, there would not be any private company or agency of government willing to purchase them, as they would have to charge very high fees to recover their investment.

SENATOR ANDREWS: What assurances will be put in the lease that the property will return to the federal government in the event it is not being used for an airport purpose?

ANSWER: With the cooperation of the General Services Administration, we have included two reversion provisions in our proposed legislation. If any of the present airport property proves unnecessary for airport purposes during the lease period, it will be turned over to the GSA for sale. A separate and final review will be made at the termination of the lease before any property is transferred in fee to the new authority.

SENATOR ANDREWS: Will the Administration object to legislation freezing current operating requirements for National, such as the perimeter rule?

ANSWER: We would not object to legislation freezing the perimeter rule, although we would not recommend it. In general, we believe that such matters are best left to the discretion of the new authority.

AVIATION LEGISLATION

SENATOR ANDREWS: What is the status of the legislative proposal to increase the trust fund share of the FAA operations account?

ANSWER: The Administration's legislative proposal will be sent to the Congress in the very near future.

FLIGHT SERVICE STATIONS

SENATOR ANDREWS: When will Congress see a proposal for privatization of Flight Service Stations (FSS)?

ANSWER: FAA is currently studying the role of the private sector in providing flight services. This includes the ability to provide the total range of services currently available as well as the delivery system. The target date for completion of the study is May 15. If the study recommends changes in the present system of providing services, they will probably be proposed in the 1987 budget submission to Congress.

INTERLINING

SENATOR ANDREWS: In response to a question at the Secretary's overview hearing (February 21), the subcommittee was informed that the Department was reviewing Republic's request to initiate a proceeding on interlining. What is the current status? When was the original petition made by Republic? Is there evidence that interlining agreements are being cut short or canceled in an anti-competitive manner?

ANSWER: Republic filed its rulemaking petition with the Civil Aeronautics Board on November 17, 1983. Shortly after sunset, the Secretary directed Departmental staff to conduct a study of the interlining issue. That study, which should be completed within a few months, will consider the arguments made by Republic, as well as the concerns expressed by other carriers who responded to the Republic petition.

On the question of whether interlining agreements are being used in an anticompetitive manner, it would be premature to draw even tentative conclusions before the study is completed. Prior to sunset, the CAB's Enforcement Division dismissed a complaint by Continental that another airline had acted anti-competitively in canceling its interline agreement. Staff is currently reviewing that dismissal both on the merits and as part of the interlining study.

CIVIL AERONAUTICS BOARD TRANSFER

SENATOR ANDREWS: Provide a breakdown by Secretarial office and mode of the projected 282 emloyees (214 staff years) and the number which actually transferred. Also estimate the number expected to be on board as of September 30, 1985 and 1986.

ANSWER: The information follows:

STAFF TRANSFERRING FROM CAB -- FULL TIME PERMANENT EMPLOYMENT

	FY 1985 BUDGET FOR CAB FUNCTIONS	ACTUAL TRANSFERS 1-1-85*	BUDGETED EMPLOYMENT 9-30-85	BUDGETED EMPLOYMENT 9-30-86**
COUNSEL	46	61	60	60
POLICY	73	86	85	83
BUDGET & PROGRAMS	3	1	1	1
GOVERNM. AFFAIRS	11	19	19	16
ADMINISTRATION	58	33	33	26
PUBLIC AFFAIRS	3	4	4	2
SECRETARIAL OFF.	41	41	41	1
SUBTOTAL S&E	235	245	243	189
OST WCF	0	14	14	11
SUBTOTAL OST	235	259	257	200
FAA OPS	4	3	5	4
INSP GEN	15	9	13	0
RSPA	28	34	30	20
TOTAL DOT	282	305	305	224

NOTES: * Includes additional functions transferred by CAB Sunset Act.
** Decrease from FY1985 to FY1986 entirely attributable to termination of Essential Air Service program.

SENATOR ANDREWS: Now that sunset is completed. What management reviews have been conducted to ensure that resources are being used most effectively?

ANSWER: Since the sunset of the CAB three months ago, we have been in the process of reviewing the resulting organization to improve the operation. One area that caught our attention almost immediately was the work of the Tariffs Division which is presently a manual operation. We are in the process of studying the system of filing and maintaining international aviation tariffs with the objective of computerizing the system. We are in the process of looking at the overall efficiency of the aviation function in the Office of the Secretary and evaluating its effect upon other functions.

ECONOMIC FITNESS

SENATOR ANDREWS: The FY 1985 Senate Report requires the continuation of air carrier economic fitness reviews. What level of staff years and personnel costs are budgeted for economic fitness in FY 1985 and 1986? How does this compare to the CAB level before sunset? How many reviews will be conducted annually? Provide a report on the number of applicants denied certification in the last three years on economic fitness grounds.

ANSWER: During the first three months of FY 1985, the CAB expended 58.5 staff months on this function. This level of staffing includes legal staff work, supervisory time, and a portion of the administrative law judges' time, as well as analysts who work full-time on fitness cases. For FY 85, the Department continues to budget the economic fitness function at the same staffing level (19.5 positions). This equates to 14.623 staff years for the nine months of FY 1985 remaining after CAB "Sunset." For FY 86, the annual staffing level would be reduced by 2 based on the Administration's proposal to eliminate the EAS Program, which has a commuter fitness component that would not be continued.

It is estimated that 87 economic fitness reviews for certificate authority will be conducted annually during FY 1985 and FY 1986. In addition, we forecast that 43 annual reviews of commuter carrier economic fitness and 20 annual undocketed continuing fitness reviews will be required.

During FY 1984, 76 economic fitness proceedings were completed involving certificate authority. Of these, 22 applications were denied or dismissed. During FY 1983, 13 orders were issued dismissing or denying such applications and during the last 9 months of FY 1982, 4 such orders were issued.

COAST GUARD USER FEES

SENATOR ANDREWS: When will the Congress receive the legislation to increase user fees to $236 million in FY 1986 and $480 million in subsequent years? Will it be necessary to collect fees through the American Bureau of Shipping, given the Coast Guard's agreements with the American Bureau of Shipping for vessel construction and modification inspections?

ANSWER: The legislative proposal was transmitted to Congress on April 2, 1985. Fees collected by the American Bureau of Shipping (ABS) for services they provide as a result of agreements with the Coast Guard are retained by ABS to offset the costs of the services provided. There are no plans to use ABS to collect user fees for services provided directly by Coast Guard.

SHORT-RANGE AIDS TO NAVIGATION

SENATOR ANDREWS: When will the Coast Guard publish its request for proposal (RFP) for contracting out short-range aids to navigation? The original FY 1985 request did not reflect savings from this effort. What savings will actually be realized this fiscal year, and what level are assumed in FY 1986?

ANSWER: The Coast Guard Authorization Act of 1984 provides that Coast Guard may not issue an RFP to contract out any function or activity until the expiration of 30 legislative days following submission to Congress by the Secretary of a full and complete statement concerning the proposed contracting out.

The notification to contract out maintenance of approximately 1,350 selected aids to navigation in five Coast Guard Districts was transmitted to Congress in mid-March. Coast Guard estimates that the 30-day notification period will expire in early May. Shortly thereafter the Thirteenth District is expected to issue an RFP. The other four Districts are expected to issue RFPs sometime this summer.

For the current year, the expectation, as shown in the FY 1985 budget, is that no dollar savings will be identified. For FY 1986 Coast Guard, as part of the projects it will be conducting, will seek to identify dollar savings. Any savings realized will be reflected in future budgets.

SPACE COMMERCIALIZATION

SENATOR ANDREWS: On March 18, the Washington Post reported that the European Arianespace, Inc. commanded almost as many orders for future flights as NASA in 1984. This suggests that NASA is losing the edge on the commercial space satellite business. What U.S. commercial entity is (entities are) likely to compete with Ariane in the next five years?

ANSWER: U.S. commercial ELVs competing in the marketplace with the Shuttle and Arianespace will likely include the Delta, Atlas/Centaur and Titan vehicles, with market forces deciding who the long term competitors will be. Most observers believe that Arianespace will increase its price commensurate with any increase in Shuttle pricing (but probably will price below its U.S. competition). Ariane capacity is limited and this is unlikely to take a greater share of the satellite market. Further, Ariane 4 has not yet flown and is not yet a proven vehicle, while the U.S. ELVs have each launched over 100 successful missions. The U.S. ELV manufacturers, being private sector commercial entities, have far more flexibility to meet special customer requirements than Shuttle or Arianespace.

SENATOR ANDREWS: Under what authority is the Department reviewing NASA's commercial pricing policy? What is the likely impact such a review will have both on NASA's competitive position and private industry?

ANSWER: A National Security Decision Directive, signed by the President in August 1984, instructed NASA to submit its proposed plan for implementing full cost recovery pricing to SIG(Space) and the Cabinet Council on Commerce and Trade for review. The Department of Transportation is a member of both of these groups. Review of the pricing policy and the recommendations that result will take into account the competitive position of both NASA and the private ELV industry in the international marketplace.

SENATOR ANDREWS: What is the Department's view of the appropriate cost-allocation methods and assumptions NASA should be employing to determine fully-allocated costs for commercial Shuttle applications?

ANSWER: The Department's view of proper cost allocation methods and assumptions differs from NASA's in two major respects: (1) DOT believes that the pricing proposal should be based on a more realistic flight rate and, (2) DOT believes there are costs properly allocable to commercial and foreign customers which have not been included in NASA's baseline. A number of these costs, such as depreciation of the orbiter and facilities, were recognized in NASA's original pricing policy adopted in 1977 and are legitimate costs to recover under government policies established by OMB and GAO, which implement the Administration's policy that the Shuttle should recover its full costs for commercial and foreign satellites after FY 1988.

SENATOR ANDREWS: Will European subsidization of private launch services be taken into account in DOT's review of U.S. policies for Shuttle or commercial launch pricing?

ANSWER: Yes, European practices in pricing launch services has been an important focus of the interagency review of Shuttle pricing options. In addition, DOT is participating in USTR's investigation and consultations concerning allegations of unfair trade practices by the European Space Agency and its member states.

SENATOR ANDREWS: What is the status of the U.S. Trade Representative's investigation into predatory pricing by Ariane? Is DOT providing technical support to the USTR? If the USTR finds evidence of predatory pricing, what trade sanctions would be put in place, and what would be the impact both on NASA and private interests?

ANSWER: On May 25, 1984, Transpace Carriers, Inc. (TCI), filed a petition with the Office of the U.S. Trade Representative (USTR) under Section 301 of the Trade Act. The petition charged that European Space Agency (ESA) member states subsidize Arianespace's export prices, thereby enabling it to engage in two-tiered, predatory pricing. Specifically, TCI alleged that Arianespace's launch services are unfairly subsidized and that its prices to U.S. customers are 25% to 33% below those to ESA and its member states. TCI requested that USTR recommend that the President retaliate against the member states by prohibiting Arianespace from advertising and marketing in the U.S., and by imposing economic sanctions on goods and services supplied by the member states.

USTR accepted the case on July 9, 1984, and requested consultations with ESA. U.S. and ESA delegations have met three times to consult on the issue of international competition in launch services. The delegations have discussed prices, costs, marketing, sales, financing, insurance, range use, personnel, export credits, and offsets. DOT has provided technical support in the areas of prices, costs, marketing, sales, and offsets. The U.S. delegation will also supplement these consultations with discussions with the American marketing subsidiary of Arianespace.

USTR has until July 9, 1985, to complete its investigation of the issues raised in the petition and its consultations with the ESA member states about Ariane launch services. Within 21 days of the USTR's recommendation, the President may "take all appropriate and feasible action" to enforce U.S. trade rights previously negotiated with an ESA member state; respond to any inconsistent act, policy, or practice of an ESA member state or one which is unjustifiable, unreasonable, or discriminatory, and burdens or restricts U.S. commerce; remove trade concessions previously granted by the U.S. to an ESA member state; and/or impose duties or other restrictions on imports from an ESA member state. Alternatively, the U.S. Government and ESA could reach an agreement in advance of any action by the President not to engage in unfair trade practices in space launch services, such as predatory pricing.

Fair international trade in space launch services would benefit both NASA and U.S. commercial ELV firms. It would enable NASA to focus more of its resources on research and development in science, advanced technology, and new applications of space. It would also help create a fair international market in which the commercial U.S. ELV industry could compete.

SENATOR ANDREWS: What tax code revisions does the Administration believe are needed to remove barriers to the commercialization of space? Does the Administration envision proposing extension of the Investment Tax Credit, Accelerated Cost Recovery, Research and Development (R&D) Tax Credits and/or revision of tariff regulations to remove barriers to space commercialization?

ANSWER: The tax revisions that the President approved as part of his National Policy on the Commercial Use of Space last summer were essentially those that would remove distortions in the tax code that put commercial space projects at a disadvantage.

SENATOR ANDREWS: What is being spent in fiscal year (FY) 1985 on space commercialization research efforts from all sources (TPR&D funds, TSC agreements, Office of the Secretary Appropriations)? How much per study is obligated as of this date?

ANSWER: The TPR&D amount budgeted for FY85 is $200,000. Approximately $61,000 has been obligated to date.

TOUCHE ROSS & CO.	$ 9,640.00

An analysis of financial criteria that would be used for cost recovery in the commercial sector, on the basis of generally accepted accounting principles (GAAP). Includes comparison of how interpretations for full cost recovery would be applied in government context.

DEPARTMENT OF DEFENSE	$ 45,940.00

Provide technical analysis of commercial launch site criteria and range design concepts will be needed. Identify essential

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elements of national range safety standards that are relevant to commercial range operation. Help establish systems capability for the Department of Transportation to conduct risk analysis of varied launch scenarios for both liquid and solid fueled launch vehicles.

LOGICAL TECHNICAL SERVICES CORPORATION	$ 5,810.00

To modify Contract 84C00073 -- analyze launch vehicles technologies for three families of expendable launch vehicles: Ariane, Atlas Centaur, and the Delta. Cost, profit or subsidy estimates, and non-quantifiable measures of competitiveness will be examined. A rating system shall be established to compare technologies on a by-vehicle basis.

The following are areas of analysis which we expect to be initiated or continued.

Elasticity of Launch Services - An area which will be investigated under contract will be the relationship between the price of launch services, and the demand for launch services. This price elasticity will be divided into two parts: 1) to what extent would higher overall launch costs inhibit the development of commercial activities in space (e.g.,postponement of communications satellite, projects or new projects in space); and 2) to what extent would lower priced transportation stimulate new commercial space markets. This requires knowledge of the proportion of overall costs that are launch costs for different projects and estimates of the return on investment targets being used for such ventures.

Contribution of Commercial ELVs to the Industrial Base - An analysis of the role of a viable ELV industry in maintaining the nation's overall space posture.

Update of Payload Projections - The market for commercial ELV launch services is characterized by a discrete amount of potential business which can be inventoried and segmented into biddable shares by each of the booster companies. The prospective number of satellites changes constantly, however, with new technological development and new rulings by the FCC. Contractor services will be needed to update the data base we have been establishing on FY 1984 monies regarding the character and size of the launch services business.

Siting Criteria and Risk Analysis Options Study. For OCST to appropriately assess a proposed nongovernmental launch site, criteria for evaluating the site and safety issues peculiar to its location must be developed. A study focusing on two tasks is being initiated shortly:

- Development of factors to be used in conducting a siting assessment, including land planning requirements, facilities standards, hazards identification, airspace restrictions, etc.

- Analysis of options for developing a capability to identify the public safety risks associated with a site's location.

Identification of Critical Launch Safety Activities Requiring Government Regulation. DOT's regulatory responsibilities cover activities that are only minimally addressed in existing government regulations. For example, OCST regulations will be directed at the safety procedures to be followed by the range operator, as well as the requirements for the range user. A study is being initiated to identify what additional requirements must be addressed that are not in existing government safety documents.

Assessment of a Regulatory Approach Based on Performance Objectives. A study will be initiated to assess and evaluate the safety and public policy issues related to use of performance objectives vs. design standards to regulate the commercial space launch industry. The study will focus on the relative staffing requirements, time to implement, and relative costs to both government and industry. Also, the study will address the specific regulatory areas where each approach is best suited.

SENATOR ANDREWS: Are studies undertaken by the Commercial Space Office follow-ons to NASA and DOD research efforts, or separate DOT efforts?

ANSWER: Two studies, analyses by Battelle Columbus Laboratories and the Aerospace Corp., were follow-ons to work originally done for NASA and the Air Force. The others have been separate DOT efforts, oriented around specific issues involving commercial ELVs.

SENATOR ANDREWS: Which federal statutes, treaties, regulations and policies had been identified as having an adverse impact on ELV commercialization, and what specific changes have been recommended?

ANSWER: The Department, and indeed the Administration as a whole, is in the process of identifying any specific statutes or policies which have an adverse effect on ELV commercialization. The Department will be reporting on its efforts in identifying and removing any such barriers to the Congress on July 1, 1985.

SENATOR ANDREWS: What specific functions necessitate two Air Force detailees to this office? What is the FY 1985 and 1986 cost to reimburse DOD for their work?

ANSWER: The Office of Commercial Space Transportation will be developing regulations that will govern commercial space launches from non-government ranges. In this regard, the Air Force detailees will provide institutional knowledge and experience regarding current safety practices on national ranges and perform an important role in OCST's efforts to develop commercial launch safety regulations for privately owned and operated sites. In addition, the commercial launch industry use of government range facilities will also be assisted by the experience and efforts of these individuals.

The Office is reimbursing the Air Force approximately $86,940 in FY 1985 and $110,000 in FY 1986 for the services of these individuals.

SENATOR ANDREWS: Provide for the record the GS levels for the 11 permanent positions associated with this Office. Last year's budget anticipated 6 permanent positions for FY 1985. Why was this level increased to 11? What positions were added? How many of the original 15 detailees still remain?

ANSWER: The Office of Commercial Space Transportation is currently staffed by 2 SES, 2 GM-15, 2 GM-14, 2 GS-11, 2 GS-9, and 1 GS-5/6 employees. In addition, three individuals from General Counsel's office in the Office of the Secretary, provide substantial portions of their time to the OCST effort. Of the original detailees, 6 remain. Additions include two secretarial slots, one staff assistant, one program analyst/writer and one research assistant. The Office of Commercial Space Transportation has been tasked with the responsibility for developing licensing, regulatory and safety requirements for commercial expendable launch vehicles. Due to the technical aspects involved, additional staff, whose expertise is in the regulatory and safety areas, is needed.

SENATOR ANDREWS: Reconcile the original FY 1985 request of $265,000 with the budget estimate of $609,000.

ANSWER: The original FY 1985 budget request of $265,000 represented the personnel compensation and benefits (PC&B) for the initial staff of 6 full-time permanent positions. During the formulation of the FY 1986 budget, one of the Secretarial initiatives was to realign existing positions in the Salaries and Expenses appropriation to accommodate the high priority needs of this office. The current estimate of $609,000 includes $475,000 for PC&B costs of 11 full-time permanent staff, $86,000 for travel, and $48,000 for contractual services.

SENATOR ANDREWS: What is the FY 1985 and 1986 travel obligation level in this office?

ANSWER: The travel obligation in this office is $86,000 for both FY 1985 and FY 1986.

SENATOR ANDREWS: Please summarize the types of license requests pending in the Department and explain on what grounds the Department chose to grant a license for the launching into space of human remains?

ANSWER: Currently, there are no license applications for commercial space launches pending at the Department of Transportation.

On January 2, 1985, Space Services, Inc. requested a statement of official position as to whether the Secretary of Transportation would prevent the launch of cremated human remains ("cremains") pursuant to her authority under the Commercial Space Launch Act of 1984 (P.L. 98-575). The Act authorizes the Secretary to prevent the launch of a payload which otherwise requires no license or permit, if it jeopardizes the national interest. (The legislation defines "national interest" as public health and safety, safety of property, national security and foreign policy interests of the United States.)

The Secretary is authorized to license a commercial space launch when it has been determined that both the **mission** and **launch safety procedures** are consistent with the national interest, as defined above.

As required by the Act, DOT worked with the Departments of State and Defense, as well as the National Aeronautics and Space Administration, to determine whether the launch of cremains would jeopardize national interests as defined in the statute. It was ascertained that SSI's spacecraft, which has a volume of less than 30 cubic feet, presented no threat of on-orbit collisions and would not affect any U.S. civil or military space projects or foreign spacecraft. It was also determined that this action would have no measurable effect upon the space environment. Accordingly, SSI was notified that the Secretary would not act to prevent the launch of a payload of this type. SSI was thus given "mission approval".

Before it can launch, however, SSI must apply for a launch license. Since the mission review component of the launch license has already been approved, SSI will have to satisfy only a launch safety review in order to receive a license. The launch safety review will focus on the safety resources that SSI will utilize in order to assure its launch does not jeopardize the public safety. Since SSI plans to utilize the resources in place at Wallops Island, a NASA-operated launch range, we expect this review to be expeditious.

ADVISORY COMMITTEE

SENATOR ANDREWS: In September 1984, the Secretary announced the establishment of the Commercial Space Transportation Advisory Committee. Twenty-three individual's names were provided as members of the Committee. Given President Reagan's January 22, 1985, memorandum regarding advisory committees, why was another one created?

ANSWER: The Committee was chartered in early 1984. It was deemed especially important that the Secretary and DOT be given an additional means for identifying the concerns of the new, commercial ELV industry and maintain a dialogue between the public and private sectors as to how government policies impact its potential growth.

SENATOR ANDREWS: What will be the annual cost for this Committee? What specific benefits are expected in FY 1985 and 1986?

ANSWER: The budget for 1985 for this committee is $39,000. The Committee, composed of a broad base of private industries interested in the commercialization of space, provides the Secretary with an important perspective on the concerns of the commercial ELV industry and how government policies affect its development, or ways in which policies can be changed to foster its growth. The first two meetings generated a number of recommendations from the committee, some of which have been implemented and others of which are now under review at the staff level.

SENATOR ANDREWS: What review is underway on the other advisory committees within DOT?

ANSWER: The Department of Transportation is currently conducting a comprehensive review of its advisory committees. In December 1984, Secretary Dole formed an Advisory Committee Review Panel. The panel has evaluated the following for each committee:

(1) The need for the committee.
(2) How the committee accomplishes its purpose.
(3) The effect of committee reports, advice or recommendations on agency mission/operations.
(4) Cost justification.

The panel is currently in the process of finalizing its recommendations to The Secretary on the advisory committees. We anticipate decisions by The Secretary on the final recommendations in the near future.

GRACE COMMISSION SAVINGS

SENATOR ANDREWS: Provide an update to the information found in last year's House volume 7, pg. 63-66. Indicate actual FY 1985 savings to be realized and revised three-year savings. Explain differences.

ANSWER: For FY 1986, the budget reflects savings of $303.1 million for recommendations included in the Grace Commission's Report on DOT. Attached is a breakdown of these savings.

	Estimated FY 1986 Savings	Actual FY 1985 Savings
TRANS-01: Modify Department R&D policy and goal-setting practices and the R&D organizational structure in the Office the Secretary.	$24.9	$21.1
TRANS-02: Improve cash management practices, including early payment, checks-paid method, collection of excess cash, and delay-of-drawdown program.	---	(6.0) 1/
TRANS-03: UMTA and DOT should design, develop, install and maintain a new computerized grant management and control system.	---	---
TRANS-04: Reduce regional offices from 10 to six and reduce administrative support costs.	0.3	0.3
TRANS-05: Consolidate ADP functions in smaller organizations and establish structured procedure for DOT ADP development.	2.8	1.5
TRANS-06: Consolidate Federal Highway Program categories and increase state fund flexibility.	---	---
TRANS-07: Simplify FHWA environmental regulatory requirements.	---	---

1/ Accrues to Treasury

TRANS-08: Combine FHWA and UMTA.	---	---
TRANS-09: Modify UMTA grantees requirement review procedures.	---	---
TRANS-10: Consolidate FRA safety and R&D function and collect user fees.	5.1	4.5
TRANS-11: Reorganize land safety functions.	---	---
TRANS-12: Redefine FHWA/State roles in highway real estate functions and streamline Federal resources accordingly.	---	1.4
TRANS-13: Centralize within DOT the responsibility for all public Federal land roads and fund through Highway Trust Fund.	---	---
TRANS-14: Cancel the Uniform Tire Quality Grading System	---	---
TRANS-15: Consolidate FAA regional centers and Air Traffic Control Centers	1/	1/

1/ Savings not expected until mid-1990's.

TRANS-16: Close low-volume control towers, defederalize operation of towers, and reduce operating hours of selected towers.	---	---
TRANS-17: Establish fee policy for MWAs that is consistent with other major metropolitan airports.	---	---
TRANS-18: Develop plan for and consolidate Flight Service Stations.	---	---
TRANS-19: Institute CG user fees and shift responsibility of selected CG functions to the private sector.	236.0	2/
TRANS-20: Eliminate operating differential subsidy payments for non-competitive preference cargo and develop fair and reasonable rate guidelines.	20.0 3/	---
TRANS-21: Modify ship financing loan guarantees and financial terms and increase guarantee fees.	13.0	---
TRANS-22: Reduce Federal funding for marine-related education	1.0	0.4
Total	$303.1	$29.2

2/ Estimate being reassessed, in light of proposed user fee legislation.
3/ Additional $12M saved by other agencies.

Over future three-year periods the Department has projected savings of $1,372.5 million for those recommendations included in the DOT Grace Commission Report on DOT. Following is a breakdown of these savings by Grace Commission recommendation:

	Current Estimated Three-Year Savings	Differences From Last Year's Estimate
TRANS-01: Modify Department R&D policy and goal-setting practices and the R&D organizational structure in the Office	61.0	o Increased by $15 million, based on actual experience in preparing budgets.
TRANS-02: Improve cash management practices, including early payment, checks-paid method, collection of excess cash and delay-of-drawdown program.	(9.3) 1/	o No estimate provided last year pending Treasury review.
TRANS-03: UMTA and DOT should design develop, install and maintain a new computerized grant management and control system.	1.3	o Increased from zero, based on reassessment of UMTA savings.
TRANS-04: Reduce regional offices from 10 to six and reduce administrative support costs.	1.0	o Reduced from $26.2 million. No reduction of regional offices now in estimate.
TRANS-05: Consolidate ADP functions in smaller organizations and establish structured procedure for DOT ADP development.	4.3	o Reduced from $6.7 million, based on more specific plans for implementation.

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TRANS-06: Consolidate Federal Highway Program categories and increase State fund flexibility.	---	o No change.
TRANS-07: Simplify FHWA environmental regulatory requirements.	---	o No change.
TRANS-08: Combine FHWA and UMTA.	---	o No change.
TRANS-09: Modify UMTA grantees requirement review procedures.	---	o No change.
TRANS-10: Consolidate FRA safety and R&D functions and collect user fees.	15.5	o Reduced from $16.0 million based on actual data.
TRANS-11: Reorganize land safety functions.	---	o No change.
TRANS-12: Redefine FHWA/State roles in highway real estate functions and streamline Federal resources accordingly.	1.4	o Reduced from $8.7 million based on further review of streamlining potential.
TRANS-13: Centralized within DOT the responsibility for all public and Federal land roads, and fund through Highway Trust Fund.	---	o No change.
TRANS-14: Cancel the Uniform Tire Quality Grading System.	---	o No change.
TRANS-15: Consolidate FAA regional centers and Air Traffic Control Centers.	---	o Reduced from $84.9 million. Dropped because savings won't begin until mid-1990's.

TRANS-16: Close low-volume control towers, defederalize operation of towers, and reduce operating hours of selected towers.	---	o Reduced from $37.7 million Emphasis has shifted to contracting out vs. closing.
TRANS-17: Establish fee policy for MWAs that is consistent with other major metropolitan airports.	---	o Reduced from $15.0 million. Revenues will cover costs, pending MWA transfer.
TRANS-18: Develop plan for consolidate Flight Service Station.	--	o Reduced from $5.6 million, pending review of privatization potential.
TRANS-19: Institute CG user fees and shift responsibility of selected CG functions to the private sector.	1,188.0	o Increased from $62.3 million, based on major new legislative proposal.
TRANS-20: Eliminate operating differential subsidy payments for non-competitive preference cargo and develop fair and reasonable rate guidelines.	60.0	o Increased from zero, based on '86 budget initiative for ODS.
TRANS-21: Modify ship financing loan guarantees and financial terms and increase guarantee fees.	38.5	o Increased from zero, based on '86 budget initiative for Title XI.
TRANS-22: Reduce Federal funding for marine-related education.	1.5	o Reduced from $2.0 million, reflecting re-estimate of savings potential.
Total	$1,372.5	

SENATOR ANDREWS: In addition, reconcile FAA's anticipated $17 million savings by 1990 for towers (December, 1984 Facility Consolidation Report), and the OST 3-year projection of $37.7 million.

ANSWER: There is no relationship between the FAA's anticipated $17 million savings in the December 1984 Facility Consolidation Report and the OST 3-year projection of $37.7 million. The OST 3-year projection of $37.7 million was based on several Grace Commission recommendations under the general category of "Closing Low-Volume Control Towers." This category includes: 1) closing towers according to FAA criteria, 2) reducing the hours of operation at some low-volume towers, and 3) defederalizing the operation of many towers. The portion of the $37.7 million pertaining to closing towers ($21.3 million) was taken from the October 1, 1983 Facility Consolidation Report which included plans for closing 52 towers over a period of three years (FY 1984-86). These plans were revised and substantially reduced as a result of congressional guidance following the hearings pertaining to this report.

The FAA's anticipated $17 million savings in the December 1984 Facility Consolidation Report is a ten-year cumulative cost effectiveness through FY 1994, not 1990, and is based only on the permanent decommissioning of six towers in FY 1985.

RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: Last year, the Secretary appointed the Deputy Research and Special Programs Administrator to the position of Research and Development (R&D) Advisor. What R&D realignments have been made, and what R&D savings are reflected in the FY 1986 budget?

ANSWER: During the FY 1986 budget formulation, modal R&D submissions to the Secretary were reviewed by the Science and Technology Advisor (STA). While no major funding realignments emerged from this process, a foundation was established for a more comprehensive review in succeeding years.

The Department has now established an R&D Coordinating Council, comprised of the Associate Administrators responsible for R&D in each operating administration, key OST officials and, as chair, the STA. The Council's purpose is to assist the STA in overseeing and coordinating R&D within the Department. The STA, with the assistance of the R&D Council, has developed new policies and procedures for reviewing Departmental R&D plans and programs to assure conformance with Departmental policies and priorities and to identify opportunities for more effective intradepartmental program coordination and for increasing the involvement of the private sector.

The new procedures are now being applied for the first time in a comprehensive review of Departmental R&D plans for FY 1987 and beyond. Policy guidance deriving from this review will be reflected in the FY 1987 budget. A major aspect of the resulting realignment will be effective programmatic coordination of related R&D activities now being pursued independently by different operating administrations.

In the FY 1986 budget, R&D savings of $24.9 million are reflected.

SENATOR ANDREWS: Has a R&D Management System been established to develop long-term perspectives, as suggested in the Grace Report? If so, describe participants and the coordination with budget formulation and execution.

ANSWER: A new R&D management system, emphasizing long-term perspectives, has been established and is currently being implemented on a pilot basis. The system, formally documented in a DOT order now in coordination within the Department, is overseen by the Science and Technology Advisor to the Secretary and involves participation by all Departmental managers and executives with R&D responsibilities. A key role is played by the DOT R&D Coordinating Council, whose members include the Associate Administrators responsible for R&D in each DOT operating administration, under the chairmanship of the Science and Technology Advisor. The new system is fully coordinated with the budget formulation and execution processes. In fact, it is expressly designed to complement those processes by providing (1) a mechanism for developing Secretarial guidance to the operating administrations for preparation of budget submissions and (2) a process for Departmental review and approval of R&D expenditure plans.

SENATOR ANDREWS: Does the Department have a formal statement of transportation research and development policy? If not, is such a statement under consideration or development?

ANSWER: The Department has not issued, and is not now planning to issue, a formal statement of transportation R&D policy. In fact, our concept of a DOT R&D policy is a very simple one. It derives directly from application of publicly stated general principles of Administration policy in specific context of the DOT mission. The result, in brief, is that R&D supported by DOT must effectively satisfy either:

(1) direct needs of the Department's own programs, viz. the operational programs of FAA and the Coast Guard, or the regulatory programs of FAA, FRA, NHTSA, FHWA Bureau of Motor Carrier Safety (BMCS), USCG, and RSPA Materials Transportation Bureau (MTB), or

(2) broad national needs, where the private sector lacks incentives for adequate investments, as in such areas where Congress has created categorical assistance programs to support particular public (e.g., highway and transit system construction) or private sector (e.g., ship construction) endeavors.

Beyond these general "needs tests," R&D sponsored by the Department must conform to the conventional criteria of sound R&D management: excellence, relevance, efficiency, and conformance with organizational (DOT) priorities.

SENATOR ANDREWS: Outside the NAS Plan, why has the Department's investment in R&D declined in real terms, despite DOT's statutory mandate to stimulate technological advances in transportation?

ANSWER: Excluding FAA Research, which is primarily associated with the NAS Plan, DOT research and development obligations for 1984, 1985, and 1986 are $180 million, $194 million, and $157 million respectively. We continue to place a high priority on technological advances in areas not appropriately the province of the private sector. An overall reduction in R&D is however, not only consistent with recommendations of the President's Private Sector Survey (Grace Commission) Recommendations, but also entirely appropriate in the context of ongoing deficit reduction actions.

SENATOR ANDREWS: What does the Department see its role to be in promoting technological advances in transportation and transportation-related industries? What is the Department doing to promote transportation safety through research and development in the area of vehicle design improvements, crash protection research, transportation of hazardous materials, etc.?

ANSWER: As indicated in our response to an earlier question, the Department sees its role in promoting technological advances as limited to cases where such advances either: (1) are necessary to better meet operational requirements of the Department (e.g., improving air traffic control, enhancing Coast Guard search-and-rescue operations), (2) contribute to the statutory purposes of Departmental regulatory programs (e.g., enhancing rail-flaw detection technology), or (3) serve broad national needs where the private sector lacks incentives for adequate investment (e.g., developing technology for extending the service life of pavements or bridge structures). In the area of transportation safety, DOT regulatory mandates warrant a broad-gauged program of R&D. Vigorous efforts in the areas of vehicle design improvements, crash protection research, and transportation of hazardous materials are all being pursued on an ongoing basis by the DOT operating administrations with associated regulatory responsibilities.

SENATOR ANDREWS: What is the Department doing to promote the productivity and international competitiveness of U.S. transportation equipment industries?

ANSWER: The Department promotes the productivity and international competitiveness of U.S. transportation equipment in several ways. Through its regulation of the safety and operational reliability of aircraft, it ensures that the performance characteristics of U.S. aircraft are never an issue in potential overseas markets. Various modal administrations routinely answer technical questions put by their foreign counterparts, and may render extensive on-site technical assistance, particularly in the aviation field. By assisting foreign nations, the standards of quality exemplified by U.S. transportation and support equipment (such as landing systems and communications equipment) are brought to the attention of the foreign technicians and managers responsible for procuring such equipment.

The Department's sponsorship of, and participation in, international transportation conferences provides ancillary opportunities for support of American transportation equipment marketing efforts. For example, the Pan-American Railway Congress, held in Washington October 3-9, 1984, included numerous U.S. equipment exhibits; and reference to U.S. experience will form an important part of the bilingual proceedings which are to be widely distributed.

The Department's Transportation Systems Center is a focal point for project work on maritime and urban transit equipment improvements, and also provides support to the Office of Automotive Industry Affairs of the Commerce Department with respect to productivity and international competitiveness. Finally, information developed and exchanged under nearly two dozen bilateral scientific and technical agreements is made available to U.S. industry for incorporation in its product development work.

SENATOR ANDREWS: What is the Department doing to promote increased economy and efficiency in the operation and maintenance of urban and regional transportation systems built, equipped and operated in large part at federal expense?

ANSWER: The federal government conducts research and provides technical assistance which is directed toward increasing economy and efficiency in both highway and transit systems. The federal government, however, does not have a direct role in the operation and maintenance of urban and regional transportation systems. The states and local governments are responsible for assuring the economic and efficient operation of these systems. Operating decisions on matters such as transit service levels and fares are made at the local level. Similarly, highway maintenance is the responsibility of state and local governments. The Administration is proposing to eliminate federal assistance for operating costs of urban transit systems which we believe will result in further economies.

SENATOR ANDREWS: What is the Department doing through research and development to enhance the efficiency, economy and effectiveness of its own operational activities, particularly in the aviation and marine areas?

ANSWER: The bulk of Departmental R&D expenditures are devoted to support of our own operational activities, most notably the FAA's landmark program to modernize and upgrade the National Airspace System (NAS). The NAS plan is predicated on FAA's recognition that the rapid growth in air travel soon will overwhelm the technological base of the entire air traffic control system. Pursuant to its comprehensive, long-term NAS plan, FAA is engaged in the development of new computer hardware and software, radar and communications systems, and in major systems engineering and integration efforts requisite to the design and installation of new, improved enroute and terminal control and flight service systems. The R&D program of the Coast Guard includes a diverse set of activities that support marine operations in the areas of search and rescue, aids to navigation, pollution mitigation and cleanup, and enforcement of laws and treaties. These activities cover a gamut of technologies ranging from advanced electronics and communications, to infrared sensing, to ship hydrodynamics, but all share the common purpose of improving the effectiveness with which the Coast Guard performs its assigned operational duties.

PROCUREMENT

SENATOR ANDREWS: In May 1984 the Secretary's Office established a requirement that all departmental procurements exceeding $100,000 be submitted to it for review and approval prior to their solicitation. What specific problems in spare parts procurement and year-end spending were identified by the two studies leading to these procurement transaction reviews?

ANSWER: The studies of spare parts procurements and year-end spending had several positive findings; as you might expect, however, there were some negative findings also. They showed that more attention to advance planning, requirements justification, the use of sole source contracts, and better pricing techniques would be worthwhile.

SENATOR ANDREWS: How has the transaction review process corrected these problems, particularly with respect to longer term, systemic improvements in procurement processes and decisions?

ANSWER: The procurement transaction review process has increased attention on the acquisition process at all levels within the Department. Greater emphasis has been placed on requirements justification, small business participation, increased competition, type of contract, and definitive statements of work.

SENATOR ANDREWS: High level review and approval of procurements can be an effective means of fostering sustained management improvements if they are used to identify specific problems and their causes. Is the Secretary's Office using the reviews to affect sustainable procurement management improvements within the department? If so, what specific problems have been identified, what actions have been taken or planned, and when will procurement decisions be returned to the normal and practical modal operating level?

ANSWER: The review process has affected procurement management improvement by increasing attention at all management levels in areas such as:

- documentation of expenditures,
- use of cost reimbursement contracts,
- quality of statements of work, and
- identification of purchases for 8(a) set-aside or small business participation.

The Department has instituted Contract Management Reviews (CRM's), the recommendations and findings of which are expected to result in substantial improvements. Additionally, we are currently in the process of establishing procedures which will result in earlier reviews and significantly reduce the time needed for individual procurement reviews.

The results of the procurement review process will be monitored closely and the process modified or terminated when the situation warrants.

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SENATOR ANDREWS: If the Secretary's Office has not used these reviews to identify specific long-term solutions to management problems, what does the Secretary's Office hope to accomplish with these reviews?

ANSWER: The Department has used the procurement transaction reviews to initiate specific long-term solutions. Establishment of a Departmental Research and Development plans and program review, increased contract management reviews, and establishment of reviews earlier in the budget cycle are projected to be aids in solving some of the problems which triggered establishment of the procurement transaction review process.

SENATOR ANDREWS: In dollar terms, how much procurement spending by the Department's operating administrations has been disapproved through this review process since it began in May 1984? What percent of the procurement dollars submitted to the Secretary's Office for approval does this represent?

ANSWER: Approximately four percent of the procurement dollars subject to the procurement transaction review were disapproved. Based on records through March 1, 1985, actions totaling $967,764,594 were approved, and actions totalling $37,783,507 were disapproved or approved after revision.

WORKING CAPITAL FUND

SENATOR ANDREWS: The FY 1984 Limitation for the Working Capital Fund was set at $68,000,000. Last year's justification included a $66,500,000 estimate for Working Capital Fund Obligations. Why were actual obligations only $57,500,000? Why are this year's obligations increased 11 percent despite last year's testimony that "lower operating costs" were expected in FY 1985, and despite reductions in support services mandated by Section 2901 of the Deficit Reduction Act?

ANSWER: The major factors contributing to the low level of obligations for FY 1984 and the increased FY 1985 request are listed below:

- In FY 1984, we experienced a $9,000,000 difference between estimated and actual obligations. This was primarily due to three factors: (1) an unexpected decrease in contracted printing costs combined with an overestimate on the contractural effects of downsizing our in-house printing function ($5,500,000); (2) the unanticipated decrease in user demand for computer timesharing services ($3,000,000); and (3) several one-time cost reduction management initiatives account for the remainder ($500,000).
- In FY 1985, the Working Capital Fund will be in full compliance with Section 2901 of the Deficit Reduction Act. However, the FY 1985 increase of $6,600,000, or 11 percent, is due to the development of a Department-wide accounting system for which no funds were required in FY 1984 ($5,000,000), Civil Aeronautics Board support which was not part of FY 1984 obligations ($300,000), and the remainder is due to expected increases for supplies and services ($1,300,000).

ADP CONSOLIDATION

SENATOR ANDREWS: What is the status of the effort to consolidate ADP functions of the small DOT administrations?

ANSWER: The consolidation is being effected through the Office of Management and Budget Circular A-76 process. Specifications were sent to an 8.a. contractor. Technical and cost proposals were received and evaluated. The Department is now in final negotiations. A decision on whether the work will be done by contractor or Civil Service personnel will be made in late April.

SENATOR ANDREWS: What savings are assumed in the FY 1986 request for both the Transportation Computer Center (TCC) and the modal administrations involved?

ANSWER: $2.0 million.

SAUDI ARABIA

SENATOR ANDREWS: For what services does Saudi Arabia reimburse the Department of Transportation $2-3 million annually? How many OST staff are stationed abroad, in what countries and for what purposes?

ANSWER: Saudi Arabia reimburses the Department of Transportation approximately $5 million annually for the services of approximately 20 technical experts and consultants who assist the Saudi Arabian Government in the areas of highway planning and maintenance, transportation regulation, railroad operations and in developing administrative systems to improve management control within the Ministry of Communications. Of the total, OST is reimbursed approximately $2-3 million annually. None of the OST staff is stationed abroad.

TELEPHONE SWITCHING SYSTEM

SENATOR ANDREWS: The Office of the Secretary budgeted $11.5 million in FY 1984 for a computer switching center. What was the actual cost? What are the current estimates of ten-year savings compared to last year's estimate of $47 million?

ANSWER: The actual cost for our new computerized telecommunication switching system is $9.5 million. Our current estimate of ten year savings exceed last year's estimate of $47 million by 8 to 10 percent. The additional savings is based on a projection of continually increasing tariffs and lower initial procurement costs of the system.

REDUCTION OF GS 11-15'S

SENATOR ANDREWS: How many GS 11-15's were reduced Department-wide (by mode). This Fiscal Year? What were the savings for each mode? What has been the impact of this administration initiative on minority and women pre-executive level advancement?

ANSWER: Between March 1981 and the end of Fiscal Year 1984, the overall number of GS 11-15 full-time permanent positions in the Department has been reduced by 7,033 (15 percent). FY 1985 figures are not yet available. The reductions have been accomplished by means of streamlining the air traffic control work force, reorganizations, consolidations, and heavy Department-wide emphasis on sound position management.

The number of GS 11-15 positions increased by 921 in 1984, primarily as a result of air traffic controller trainees moving into this grade range.

Office of Management and Budget and DOT tracking of the salary savings directly resulting from the GS 11-15 reduction initiative did not begin until FY 1985.

Position Management to reduce the number of higher level positions does have a negative impact on career advancement opportunities for all employees, including minorities and women. Nevertheless, the special emphasis given by the Department to career advancement of women and minorities resulted in a significant increase in the number of women (up 13%) and minorities (up 6%) in GS 11-15 full-time permanent positions.

The following chart reflects the reduction in GS 11-15 staffing and the projected savings included in FY 1985 budget:

	Change Between 3/81-9/84	Percentage Change 3/81-9/84	Savings in FY 1985*
OST	85	-18%	$ 56
USCG	28	+ 2%	256
FAA	6,160	-16%	6,712
FHWA	275	-12%	472
FRA**	132	-21%	104
SLSDC	4	-10%	8
UMTA	27	- 8%	72
NHTSA	105	-20%	88
RSPA	125	-22%	72
OIG	9	- 3%	72
MARAD	139	-25%	88
Totals	7,033	-15%	$8,000

*Dollars in thousands.
**Excludes Alaska Railroad.

SENATOR ANDREWS: Provide for the record an update to the chart on page 106 of last year's House hearing illustrating employee grade distribution in the Office of the Secretary.

ANSWER: The information follows:

	GS/GM-15 or Higher	Total Employment	Percent GS/GM-15 or Higher
As of February 28, 1985:			
Secretarial Offices	39	142	27.4
Public Affairs	5	29	17.2
Budget and Programs	14	39	35.9
General Counsel	41	117	35.0
Governmental Affairs	12	50	24.0
Administration	46	470	9.8
Policy & International Affairs	62	200	31.0
Total	219	1047	20.9

UNIVERSITY RESEARCH

SENATOR ANDREWS: What level of funding is allocated this fiscal year for the University Research Program? In what respect has the program been "reoriented" since its transfer from the Research and Special Programs Administration?

ANSWER: The University Research Program budget request is $750,000. The Program has been reoriented to better serve the policy needs of the Department. The research sponsored by the Program is Department-wide in scope and addresses issues which are long range, cross-modal and multi-modal. In addition increased emphasis is being given to sponsoring research at the nations minority colleges and universities.

SENATOR ANDREWS: How many minority school internships will be awarded this fiscal year and next from university research funds?

ANSWER: None were awarded in FY 1985. As of this date none are planned for FY 1986.

TRANSPORTATION PLANNING RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: FY 1985 Transportation Planning. Research and Development (TPR&D) funds were intended for the following projects:

- Transportation Safety
- U.S. Maritime Industry Competitiveness
- Emergency Energy Allocation Procedures
- Public Transportation for the Handicapped

What is the status of each effort? When will studies be completed? How much has been obligated for each? What policy changes will result from each study?

ANSWER: Transportation Safety - The Marine Safety Report Program (MSRP) is a year-long demonstration of a voluntary, confidential, and non-punitive reporting system that will focus on incidents involving the navigation and control of commercial vessels. The June 1 start date for the demonstration will be met subject to an OMB approval for the reporting form, which action is expected shortly. Not counting $60,000 for a multimodal feasibility study, $235,000 has been obligated to date for the development of, and preparation for, the MSRP. If the demonstration proves to be successful, a benchmark will have been established for instituting a permanent program, preferably

without direct Government involvement or funding. In addition, insights and information derived from the demonstration might conceivably point towards some new directions for industry procedures, navigational aids, safety enforcement, maritime R&D, regulatory emphasis, and safety education. Another area is the Transportation Safety Implications of Licit and Illicit Drug Use by Operators. A Draft Work Statement is before the Secretary's Working Group on Drug Use. $400,000 funding is planned in FY 1985 which may be augmented by contributions from the affected operating administrations. We expect the results of this project to be useful in evaluating the Department's current programs directed at preventing drug use by transportation operators in all modes and to suggest changes, where appropriate, in rulemaking, enforcement, training and awareness programs.

U.S. Maritime Industry Competitiveness - Maritime regulatory and shipbuilding studies will be undertaken with an obligation of $40,000 expected. This project supports DOT's continued analysis of competitive aspects of the shipbuilding and operating industry. It is expected that the outcome will be information on 1) possible rate deregulation of the domestic-offshore trades, and 2) the impact of various possible government actions to encourage productivity improvements in the ship repair industry.

Emergency Energy Allocation Procedures - Although funding was included in our original FY 1985 TPR&D proposal for analysis of the transportation impacts of petroleum supply disruptions and of measures designed to cope with energy emergencies, subsequent reductions in TPR&D funding resulted in deletion of the proposed analysis from our research program.

Public Transportation for the Handicapped - The contracted research on the experiences of a representative group of mass transit agencies in meeting this obligation under the final Section 504 rule will not be undertaken this fiscal year because of serious funding limitations in the TPR&D account.

SENATOR ANDREWS: The Secretarial Offices are included in the transportation planning, research and development request for $350,000. What projects will be undertaken with this funding? Why cannot these studies be done by TSC or other research elements of the Department?

ANSWER: The Science & Technology Advisor to the Secretary will undertake projects designed to provide technical services to support the planning, analysis and evaluation functions of the advisor. These projects can and will be performed at TSC. Because TSC is appropriated no money directly, the projects will be funded by an intradepartmental transfer (from the TPR&D appropriation) to the TSC Working Capital Fund.

The specific projects to be undertaken by the Office of Commercial Space Transportation are extensions of those contracts outlined in question 54 with more of the emphasis on contracts necessary to meet our regulatory needs. TSC will be supporting the office with specific studies, but many of the projects require contractors with a strong background of performance in space activities, which at this time is only available from outside sources.

SENATOR ANDREWS: The decrease in FY 1986 of $177,000 for administrative expenses results in what net level? How can such a significant reduction be taken in one year?

ANSWER: The decrease of $177,000 for Administrative Expenses in FY 1986 results in a net level of $2,478,000. This decrease is possible because of projected reductions in timeshare ADP usage as we acquire a better in-house capability, plus reductions in supplies and printing.

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: Why does the budget assume a 50 percent reduction in FY 1988 and subsequent zeroing out of the rural transportation activity?

ANSWER: While there is, in fact, an actual reduction in the projected dollar amount for rural research sponsored through the Technology Sharing Program in the Office of the Secretary and a zeroing of the activity by FY 1989, it is felt that this will by no means reflect a drastic reduction in the technical assistance available on this topic. The main function of our program activity in this area has been to highlight the special and unique needs of transportation in rural and low-density areas. Our research funds have been used as "seed money" to stimulate interest in this field and encourage others, particularly in the private sector, to further study rural transportation problems.

To date, we have been successful in stimulating research in transportation planning for low-density areas, use of volunteers, driver training, accounting systems for small transit agencies, a guide for small transit vehicle specifications, and special transportation needs of the elderly and handicapped, and have worked extensively with the conference on rural public transportation in identifying additional problem areas. The final technical reports already produced on these topics, plus others that are in developmental stages or anticipated forthcoming in the future, will be available for distribution from this program for years in the future without additional funds being allocated to specific research in this area by this program. Funds for the anticipated dissemination of the program's products are requested under Technical Program Development and Support, as well as the Innovative Outreach and Assistance items discussed in our proposed budget request.

Lastly, it is felt that, with the work already initiated in this field, other government agencies, university transportation research centers, and various private sector organizations will be sufficiently aware of the problems of this segment of our society, and will continue research in this very important field on their own initiative. Through long-established working arrangements with many of these parties, new technical products will continue to become available to this program for publication and transfer to interested users across the country for many years without additional expenditures for research from this program.

SENATOR ANDREWS: The Statement of Managers accompanying the Continuing Resolution for FY 1985 directed that a study be conducted and submitted by March 1 assessing the policy implications and technical feasibility of requiring transit properties to meet a minimum operating revenue to operating cost ratio as a condition of receiving federal operating assistance. When will this study be fowarded to the Committee? What explains the delay?

ANSWER: The report has been completed and is undergoing final review in the Department. It is expected that it will be transmitted to the Committee shortly. The report was briefly delayed because it took longer to assemble and analyze the Section 15 data for 1983 than was expected.

SENATOR ANDREWS: Were in-house or contract resources used for the study? How many staff years? What cost? To what extent did UMTA collaborate?

ANSWER: The study was conducted with the assistance of a contractor and the DOT Transportation Systems Center (TSC) in Boston. UMTA cooperated in all phases of the study and concurred in the final report. The contract for the services of the contractor and TSC cost $60,000. It is estimated that 2 person-months in the Policy Office were expended on this study. The study was managed by the Policy Office in OST. The staff of this Office directed and participated in the analysis and in the writing of the final report.

SENATOR ANDREWS: What were the major conclusions of the study? What direct impact will this study have on the formulation of transit legislation?

ANSWER: Although a federal revenue ratio test could contribute to some improvement in the financial position of transit operations, it is unlikely in and of itself to effect much improvement in efficiency and it would continue the intrusion of the federal government into a function that should be locally controlled. The Administration, therefore, remains committed to the elimination of federal operating assistance.

Although not appropriate at the federal level, a revenue/cost ratio approach, however, may be a worthwhile alternative for state programs assisting urban transit systems. Operating revenue/cost ratio targets or thresholds are used in transit funding programs in California, Connecticut, Illinois, Maryland, Minnesota, and Pennsylvania and are under consideration in New York.

SENATOR ANDREWS: Was Section 15 data useful and sufficient to provide background data? Was this data augmented by other transit system databases? If so, what? Will the Policy Office provide suggestions to UMTA on areas of improvement of Section 15?

ANSWER: The Section 15 reporting system provided the data used in this study. The analysis of the Section 15 data base in this study revealed a number of problems regarding this use of the data for computing operating revenue/cost ratios. These problems were related to inconsistencies in the application of data definitions and to missing data. The Policy Office has discussed these problems with UMTA. UMTA will be taking some corrective action.

ADMINISTRATION

SENATOR ANDREWS: To what extent is the workload of the Office of Hearings extended to non-aviation matters, as directed in Senate Report 98-561?

ANSWER: The mission and function statement for the Office of Hearings is being revised to include all formal proceedings falling within the Administrative Procedure Act and instituted under legislation vesting executive authority in the Secretary of Transportation. The Office of Personnel Management has been formally advised by the Department of its intention to assign judges from the Office of Hearings to preside over cases originating in the Office of the Secretary or the operating administrations. The Office of Hearings continues to be predominantly oriented toward aviation cases. However, non-aviation DOT proceedings have been commenced and it is anticipated that within the year the hearings work will reflect the adjudication needs of the various transportation modes.

SENATOR ANDREWS: Does the reduction in Administrative Operations assume more functions being contracted out? If so, what are they and what will be the total FY 1986 savings?

ANSWER: The reduction reflected in this appropriation (Salaries and Expenses) is not associated with contracting out. This reduction will be achieved as a result of elimination of administrative support to the Essential Air Service function and administrative efficiencies. Savings in Administrative Operations as a result of contracting out are, however, anticipated under the Working Capital Fund. Contracting out studies encompassing 39 positions are scheduled for certain library functions, distribution services and warehousing activities. It is anticipated that these studies will result in a reduction of 20 positions and net savings of $120,000.

MUSE AIR ACQUISITION

SENATOR ANDREWS: When will the Department complete review of the Southwest Airlines takeover of Muse Air? How long has the merger been under consideration within DOT? How does the Department's review procedure and amount of time to complete action compare to the process used by the CAB?

ANSWER: Under Section 1010 of the Federal Aviation Act, 49 U.S.C. 1490, the Department must complete its review of a Section 408 application within six months from the date of filing. However, if the Department uses a show-cause procedure rather than a full evidentiary hearing, less time should be required.

The merger has been under consideration within the Department since Muse and Southwest filed their application on March 25, 1985. However, the Department is scheduled to receive comments on the merits of the proposed transaction and procedures on April 9, 1985, a date established by operation of Department regulations. The choice of procedure will be made after a review of these comments.

To date, the Department has followed the policies and procedures established by the Civil Aeronautics Board. On occasions where there was no serious question of competitive effect or other disputed material issues of fact in the merger of two certificated airlines, the Civil Aeronautics Board also dispensed with oral evidentiary hearings and adopted a show-cause procedure.

SENATOR ANDREWS: What aircraft loan guarantees are outstanding and how will the Government's interest in them be protected during the acquisition review?

ANSWER: The Federal Aviation Administration has guaranteed an Aircraft Purchase Loan to Muse Air for two DC-9-80 aircraft. The current contingent federal liability is $29 million.

The Department of Transportation is now in the process of reviewing the pending Southwest-Muse merger application according to the standards established in Section 408 of the Federal Aviation Act. In general, these standards place primary reliance on the promotion and maintenance of actual and potential competition in judging the merits of proposed mergers. In the context of Section 408, the interests of the federal government involving loan guarantees cannot play a decisional role in evaluating merger and acquisition proposals.

POLICY STAFF

SENATOR ANDREWS: Why do positions in the immediate Office of the Assistant Secretary for Policy and International Affairs increase five in FY 1985 and 1986 over FY 1984?

ANSWER: The increase comes with the addition of a Special Programs Staff to the immediate office of the Assistant Secretary. The Special Programs Staff reports directly to the Assistant Secretary and has responsibility for facilitation, inter office coordination, and review of all airline economic regulatory activities performed by the Policy Office—activities largely new to the Office as a result of CAB Sunset.

SENATOR ANDREWS: The Policy Office no longer contains "Industry Policy" and International Policy and Programs". Are those functions currently carried out by the "Regulatory Affairs" and "International Transportation and Trade" Offices? What savings result from this change?

ANSWER: The "Industry Policy" functions continue to be performed in the Office of Regulatory Affairs under the Industry Operations and Safety Division. The functions formerly carried out in the International Policy and Programs Office have been split. Aviation negotiations are now performed by the Office of International Aviation Relations and the other functions are conducted in the Office of International Transportation and Trade. We do not anticipate any savings as a result of these changes.

SENATOR ANDREWS: What are the major functions of the Offices of Aviation Operations and International Aviation Relations? Are these all former CAB staff? Why cannot these functions be merged with existing Policy offices?

ANSWER: The Office of Aviation Operations is generally responsible for developing and administering public policies related to the economic regulation of the airline industry. It is responsible primarily for the licensing of air carriers, the pricing of international air transportation, and representing the public interest in quasi-judicial proceedings instituted by DOT in discharging its statutory responsibilities for domestic and international aviation. The Office of Aviation Operations comprises five divisions, each with a unique set of functions. The Licensing Division makes recommendations on the award of operating authority to foreign air carriers to serve the United States, registers U.S. air taxis and commuter air carriers, monitors U.S. and foreign carrier compliance with our liability insurance requirements, and regulates domestic and international air charter activity. The Public Proceedings Division makes recommendations on granting operating authority to U.S. carriers to serve foreign countries, prepares exhibits, analyses and expert testimony as public counsel in oral evidentiary carrier selection hearing cases and, while strictly observing the statutory separation of function requirements, prepares policy recommendations on these formal hearing matters for the DOT decisionmaker. The Special Authorities Division makes recommendations regarding the economic fitness of U.S. air carriers to engage in domestic and international air transportation, preparing exhibits and analyses in DOT formal proceedings when these matters are set for hearing. The Tariffs Division processes and reviews international tariff filings, recommending appropriate DOT action. The Fares and Rates Division develops policy and recommends appropriate action on international passenger fares and cargo rates, as well as on domestic and international air mail rates, reviews air mail contracts between U.S. carriers and the United States Postal Service, and monitors the ratemaking and tariffs coordination activities of the International Civil Aviation Organization (ICAO) and the International Air Transport Association(IATA). The Office of Aviation Operations is a new unit composed primarily of transferred CAB staff.

The Office of International Aviation Relations is the Department's aviation bilateral negotiating branch. This office, in coordination with the airline industry, airports, communities and other interested parties, develops the U.S. Government's position papers and policy directives by which aviation bilateral negotiations are conducted and bilateral agreements are implemented. Staff members in this office, which is divided into four broad geographic regions with country desk assignments, are members of the inter-agency negotiating team which formally discusses bilateral issues with foreign governments. During calendar year 1985, approximately 40 to 50 individual rounds of negotiations will be held with foreign governments. In addition, all U.S. airline designation requests to serve foreign markets are made by this office and transmitted to the foreign government by the Department of State. The Office also has primary responsibility for coordinating U.S. airline complaints against discrimination or unfair treatment by foreign governments or airlines under the International Air Transportation Competition Act. The staff is supported by a technical statistical division which develops the balance-of-benefits assessment for all bilateral negotiations. Staff members include former CAB staff from the CAB's Bureau of International Aviation and DOT staff previously located in the former Office of International Policy and Programs.

The CAB's residual functions transferred to DOT, together with the associated CAB staff, have been integrated into the existing DOT organizational structure. To the extent practicable, the CAB functions and supporting staff assigned to the Office of the Assistant Secretary for Policy and International Affairs have been assimilated by the existing policy units. Nonetheless, certain CAB functions could be administered most effectively and efficiently en bloc in a discrete unit. Those functions were assigned to the Office of Aviation Operations and the Office of International Aviation Relations, where they are supported by staff transferred from the CAB integrated with existing DOT staff from other Policy offices. The Department chose to establish separate new offices for the aviation operations and international relations functions because of the distinct nature and foreign policy implications of the workload. Establishing separate offices also enabled the Department to take advantage of the unique skills of transferred CAB staff.

GOVERNMENTAL AFFAIRS

SENATOR ANDREWS: With aviation complaints increasing, why are positions for the Office of Community and Consumer Affairs reduced by four in FY 1986? How many complaints were handled in FY 1984 and how many are estimated for FY 1985 and 1986?

ANSWER: Positions for the Office of Community and Consumer Affairs are reduced by four in FY 1986 due to the proposed elimination of Essential Air Services (-3) and administrative efficiencies (-1). The number of complaints handled in FY 1984 were 10,400. It is estimated 13,000 complaints will be handled in FY 1985 and 17,000 in FY 1986.

Beginning January 1, 1985, the new Office of Community and Consumer Affairs removed the requirement that all complaints be filed in writing. However, due to transitional needs complaints filed by telephone during the second quarter of FY 85 were not compiled for inclusion in the monthly complaint report. This is consistent with the past practice of the CAB which did not compile statistics for telephone complaints for the first quarter of FY 85 nor in any prior years. Once again telephone filed complaints were discouraged and rarely accepted.

Beginning April 1, 1985, complaints filed by telephone will be included in the monthly as well as annual complaint reports. The result will be a marked increase in the number of complaints recorded in the last two quarters of FY 85 since consumers need only telephone to record their complaint instead of writing a letter. Our analysis indicated that the estimated increase is due to the change in the complaint-handling system and not an actual increase in overall complaints.

The increase in FY 86 over FY 85 is based on the new complaint-handling system being in place for a full year instead of only two quarters in FY 85.

UNOBLIGATED BALANCES

SENATOR ANDREWS: Why was $1,434,000 lapsed at the end of FY 1984? What is the estimate of funds to lapse at the end of FY 1985?

ANSWER: Because of the freeze on outside employment imposed throughout all of FY 1983, employment levels estimated in the budget for FY 1984 did not materialize accounting for $644 thousand of lapsing funds. The balance is a result of savings in the areas of travel and contractual services. We do not anticipate that any funds will lapse at the end of FY 1985.

PAY SUPPLEMENTAL

SENATOR ANDREWS: $875,000 is requested for FY 1985 pay supplemental costs. What percentage absorption does this amount assume?

ANSWER: The cost of the 1985 pay raise for Salaries and Expenses was $923,000 of which $48,000 (5.2%) was absorbed. The total cost to the Transportation Planning Research and Development and Working Capital Fund appropriations was $279,000 which was entirely absorbed for an overall OST absorption rate of 27%.

PRINTING COSTS

SENATOR ANDREWS: Explain the increase in FY 1985 and 1986 printing costs over the FY 1984 level of $773,000.

ANSWER: The object schedule on page 9 of the justifications is incorrect. The actual FY 1984 total should be $205,000 higher; due to an administrative error, the end of year reports did not reflect this obligation level. For FY 1985 and FY 1986 the object schedule does not reflect adjustments associated with Deficit Reduction Act savings. The correct table of printing costs is as follows:

PRINTING COSTS
(in thousands of dollars)

	1983	1984	1985	1986
Printing	$532	$776	$669	$761
Hot Copy	142	32	27	31
Distribution	196	62	53	60
Photographic	45	68	59	67
	$915	$938	$808	$919

The increase for FY 1986 results primarily from full year funding of the functions transferred from the CAB.

OTHER SERVICES

SENATOR ANDREWS: Explain the FY 1986 decrease for direct other service obligations of $2,588,000. Why were reimbursable obligations for FY 1984 Other Services estimated last year at $2,500,000 yet the actual amount was $4,234,000?

ANSWER: FY 1985 Other Services, as adjusted for the proposed rescission in accordance with the Deficit Reduction Act and the CAB related program supplemental, is $10.1 million and FY 1986 is $8.3 million, a reduction of $1.8 million. The principal elements of this are (1) reduction of Minority

Business Resource Center program level to $4 million (-$1.1 million), (2) share of governmentwide administrative savings taken in contract support (-$0.5 million) and (3) contract support associated with elimination of the Essential Air Service function (-$0.2 million).

Actual FY 1984 Other Services for the reimbursable program exceeded the estimated amount by $1.7 million. Obligation levels for reimbursable programs are not precisely known when the budget estimates are formulated due to the nature and duration of services and materials requested by the paying organization. Reimbursable activities requested after submission of the budget estimate are accommodated to the extent that the services and materials can be provided. In FY 1984, the reimbursable obligations include a payment made by OST for services provided to several DOT operating administrations. The subsequent reimbursement to OST is reflected in the offsetting collections. This billing procedure was not anticipated at the time estimates for FY 1985 were submitted.

TRAVEL

SENATOR ANDREWS: Last year's justification included a $674,000 request for FY 1985 travel. Despite Congress' overall reduction for total salaries and expenses. This year's justification shows $730,000 being spent in FY 1985 on travel. Explain the increase, and update the FY 1983-present travel report found on page 690 of last year's hearing, breaking down the secretarial offices by activity.

ANSWER: Of the Congressional reduction in the Salaries and Expenses original budget request for FY 1985, $200 thousand was attributable to travel. However, the original budget request of $674 thousand did not provide funds for the transfer of any CAB activities which we now estimate to be $170 thousand. The remaining increase of $86 thousand is in the Office of Commercial Space Transportation for which no travel funds were included in the 1985 budget. The distribution of travel funds and obligations to date follows:

Office of the Secretary
Salaries and Expenses
Travel Costs
(in thousands of dollars)

Office	FY 1983	FY 1984	FY 1985	FY 1985 Oblig. 3/31/85	FY 1986
General Counsel	46.0	72.0	79.0	35.2	90.0
Policy	70.0	120.0	151.0	48.0	172.0
Budget and Programs	6.0	6.0	10.0	.3	10.0
Government Affairs	15.0	18.0	29.0	5.6	31.0
Administration	74.0	87.0	86.0	31.0	90.0
Public Affairs 1/	7.0	9.0	12.0	2.5	13.0
Secretarial Offices	180.0	230.0	363.0	98.1	369.0
Immediate Office	(110.0)	(116.0)	(165.0)	(42.0)	(165.0)
Civil Rights	(22.0)	(21.0)	(26.0)	(7.3)	(26.0)
Sm. & Dis. Bus. Util.	(48.0)	(82.0)	(72.0)	(28.9)	(72.0)
Commercial Space Transportation	---	(11.0)	(86.0)	(18.7)	(86.0)
Essential Air Service	---	---	(14.0)	(1.2)	(20.0)
Total	$ 398.0	542.0	730.0	220.7	775.0

1/ The Assistant Secretary for Public Affairs was established in September 1983 and was formerly included in the Secretarial Offices.

SENATOR ANDREWS: The FY 1986 direct travel obligations request is $775,000, almost double the FY 1983 level. What explains this increase despite: Congress' inclusion of travel cuts (Sec. 2901) in the Deficit Reduction Act; Decreased Air Fares; and elimination of the essential air service program?

ANSWER: While travel requirements have remained relatively constant over the past several years, travel costs have increased. For instance, subsistence reimbursement levels have been raised by the General Services Administration since 1983 to reflect increasing lodging and meal expenses incurred by employees. Additionally, both Government-contract and non-contract air fares have increased significantly since 1983. Another contributing factor to the increase over 1983 is $215,000 related to activities transferred from the Civil Aeronautics Board on January 1, 1985. Travel savings realized by elimination of the Essential Air Service program amounts to $12,000 and has been reflected in the above 1986 estimate.

PERSONNEL COMPENSATION

SENATOR ANDREWS: Why is there a doubling of reimbursable "Other Than Full-Time Permanent" obligations in FY 1985 and 1986 over the FY 1984 actuals? Why were FY 1984 levels lower than estimated in last year's justification?

ANSWER: Reimbursable FY 1984 obligations estimated in the budget for the Saudi Arabia program in the Office of Policy and International Affairs did not materialize. Current estimates assume an increased level of activity for this and the Honors Attorney program in the General Counsel.

CHAUFFEURS

SENATOR ANDREWS: The *Washington Post* reported that the Department of Transportation ranked second after the Defense Department in a 1982 survey of chauffeured officials. Provide for the record the number of officials who receive chauffeur service and the cost since 1980. Also, update the overtime cost information provided for the Senate hearing last year.

ANSWER: The Chauffeur Pool provides services to approximately 60 high level officials who require occasional transportation for urgent official business.

Actual Chauffeur Pool cost for 1980 through 1984 were:

1980	$161,320
1981	$148,386
1982	$172,619
1983	$130,212
1984	$160,532

In FY 1984, chauffeur overtime hours were 1,536 for a total cost of $22,055. From October 1, 1984 through March 29, 1985, chauffeur overtime hours were 708 for a total cost of $10,927.

ACCOUNTING

SENATOR ANDREWS: When was the Department-wide accounting system project started and what is its status?

ANSWER: Project definition began in July 1984. Since that time, a high level requirements model, using structured analysis has been developed for each administration. Subsequently, consolidated departmental high level and detailed requirements models have been developed. Currently, the detailed departmental model is being validated.

SENATOR ANDREWS: How long will it take to develop and implement this accounting system?

ANSWER: The current project plan calls for contract award in June 1986, and a phased implementation into the DOT administrations to begin in July 1987.

SENATOR ANDREWS: How much is such an accounting system going to cost by mode and fiscal year to develop and implement?

ANSWER: System cost information is not yet available. Several organizational and developmental options are being evaluated which will ultimately dictate system costs.

SENATOR ANDREWS: How much has been obligated to date by mode?

ANSWER: Funding for the project is controlled by the Office of the Secretary. To date, approximately $150,000 has been obligated for contractor support in structured analysis.

SENATOR ANDREWS: Is FAA's system fully implemented, and if not, when is is expected to be completed?

ANSWER: FAA's Uniform Accounting System (UAS) has been implemented.

SENATOR ANDREWS: Has DOT performed a cost/benefit analysis that included at least (1) accounting systems currently in operation in DOT or other Government agencies, (2) off-the-shelf package systems to consolidate DOT's various current systems, and (3) this new Department-wide accounting system? What has such a cost/benefit analysis shown?

ANSWER: DOT is currently evaluating (1) systems currently in operation in DOT and other Government agencies, and (2) commercially available packaged software. The evaluation will include costs and associated advantages and disadvantages of each option.

SENATOR ANDREWS: If this accounting system is to be a generic Government-wide system, what coordination has taken place with OMB, Treasury, and other agencies?

ANSWER: DOT and the Office of Management and Budget have formed an Interagency Task Group including Treasury, Commerce, Agriculture, Justice and several other agencies. Currently, the group is developing a standard general ledger charter of accounts with standard definitions, and standard data elements. In addition, DOT has been working closely with Commerce in modeling standard Government-wide accounting events.

ADP RESOURCES

SENATOR ANDREWS: In implementing the Paperwork Reduction Act requirement for a Departmental Senior Official for Information Resource Management (IRM), how has DOT established authority for acquiring IRM support and in particular approval of acquisitions for computer hardware?

ANSWER: In a Departmental memo dated July 2, 1981, the Secretary fully supported the objectives of the Act and designated the Assistant Secretary for Administration as the Senior Official. On August 24, 1981, the following procedures were put in place:

1. All requests for delegations of procurement authority (DPA) are from the Senior Official to the General Services Administration (GSA).
2. GSA was instructed to return without action any DPA request unless it came from the Senior Official.
3. The Head of each Operating Administration designated an individual who is empowered to request that the Senior Official request a DPA from GSA.
4. All delegations from GSA are to the Senior Official who then designates an appropriate official to initiate the acquisition action.

SENATOR ANDREWS: What officials at each management level in DOT can approve hardware acquisitions and the dollar limits of their authority? If the Senior Official is the only position of approval, what officials have review authority?

ANSWER: Within the operating administrations, the senior administrative official is designated to request DPA's and can approve hardware acquisitions. The dollar limits vary depending on the type of acquisition. The operating administrations' senior official approves microcomputer acquisitions up to $10,000 and other hardware acquisitions up to $50,000 which fall within established Departmental guidelines. Additionally, the senior administrative official can acquire any hardware up to $300,000 providing approval was granted as part of the ADP planning process.

SENATOR ANDREWS: What is the management relationship (role) of DOT's IRM Office (Office of Information Systems and Telecommunications Policy (OISTP) versus the IRM office of the nine DOT administrations?

ANSWER: The OISTP provides the oversight guidance and leadership on IRM matters including ADP, telecommunications, information collection budget, Privacy Act records and forms management, information processing support through the Transportation Computer Center and central contracts for commercial computer time sharing services. To maintain coordination and communications with the Operating Administrations, there are formal and informal working and policy level groups which are headed by the OISTP. The OISTP directs IRM resource planning and develops and submits the ADP and Telecommunications Special Analysis of OMB Circular A-11 to OMB and to the Congress. The OISTP also reviews any budget requests which include IRM resources.

SENATOR ANDREWS: What are OISTP's management priorities?

ANSWER: OISTP's priorities are IRM planning, IRM triennial reviews, software management, resource sharing, privacy and security in automated systems, and control and use of information.

SENATOR ANDREWS: How does OISTP enforce IRM policy?

ANSWER: This is accomplished through several mechanisms, such as the acquisition review process, in which OISTP coordinates with the requestor, the Office of Installation and Logistics, and Secretarial staff; the budget review process; the IRM planning process; and selected reviews.

SENATOR ANDREWS: How does OISTP measure the effectiveness of its policies?

ANSWER: OISTP's effectiveness is best measured by reviewing the use of modern software, hardware, and telecommunications which has enabled the Department to meet its missions in the face of personnel reductions; the significant increases in resource sharing and the use of packaged software; the development of standards for load leveling between two data centers, movement of applications to the least cost processing center, the migration of selective applications from large, expensive mainframes to more cost effective smaller computers; the use of measurement tools to get more processing per dollar, and selective audits which pinpoint areas for management attention.

SENATOR ANDREWS: Does DOT have any special management programs or procedures to implement its policy requiring the use of (1) off-the-shelf software, and (2) consolidated computer systems (systems shared by different administrations)?

ANSWER: Yes, Departmental directives and published guidelines require the use of commercial or Federal packaged software as a first consideration and also emphasizes consolidation of computer systems. The process for implementing these policies are the acquisition, planning, budgeting and selective review processes.

SENATOR ANDREWS: What percentage of DOT's computer systems use off-the-shelf-software and how many Administration's share common systems?

ANSWER: All four main DOT computer centers use numerous off-the-shelf software packages. The number of applications using the packaged software is not currently known. However DOT is developing a computerized data base which will contain profiles of DOT applications. Currently the DOT Administrations use common systems to manage civilian personnel, contracts, occupational safety, and payroll. The DOT is now developing a single integrated accounting and financial management system, automated inventory of computer applications, an integrated real property system, and an integrated personnel/payroll system.

SENATOR ANDREWS: Previous GAO reports have noted problems with underutilized computer capacity. Has DOT taken any actions to correct these problems and could you provide statistics on capacity utilization at the Department's major computer center?

ANSWER: Yes.

DOT has a capacity measurement program to measure computer performance and predict computer capacity requirements. The Transportation Computer Center uses several state-of-the-art tools to measure and predict this performance.

COMPUTER UTILIZATION DURING THE PERIOD
REVIEWED BY GAO:

DATE	CPU UTILIZATION
April 1982	30%
April 1983	50%

RECENT COMPUTER UTILIZATION

April 1984	90%
October 1984	95%

SENATOR ANDREWS: How will DOT carry out the President's "Reform 88" Information Technology Initiative, contained as a Supplemental to the FY 1986 budget?

ANSWER: The DOT is supporting the "Reform 88" Information Technology Initiatives through several actions such as the application of data base management software to developing a departmental accounting and financial management system, the use of fourth generation languages, the emphasis on managing information as a resource, the replacement of obsolete equipment, the application of technology to high payoff areas, the development of an accounting system generic logical model for government-wide application.

SENATOR ANDREWS: What actions has FAA taken to resolve the problems identified in a February 29, 1980, GAO report entitled "How To Improve The FAA's Ability To Deal With Safety Hazards", (CED-80-66)? In addition, (1) could you identify the FAA office with responsibility for safety analysis, and (2) provide information on

FAA's planning system for safety? One major goal of the Aviation Analysis System (ASAS) is to increase productivity of aviation standards field personnel. It has cost aproximately $16.2 million as of the first quarter of FY 85. What benefits has FAA derived from the ASAS? That is, how has productivity increased? When will the benefits of ASAS appear? Does FAA plan to acquire additional terminals and host computer capacity to support the ASAS? How much will this increase ASAS cost?

ANSWER: In mid-1984, the FAA Administrator made a significant change in the agency's structure for safety program analysis when he removed the Office of Aviation Safety from Aviation Standards and placed it in his immediate staff. This change was made to separate that functional area from ongoing operations, and to permit broad agency oversight of all safety programs from a single independent perspective.

The FAA was directed by the Secretary in February 1984, to initiate both short and long-term reviews of the air transportation industry's compliance with applicable safety regulations, and to conduct in-depth reviews of the efficiency and effectiveness with which aviation safety inspectors carry out safety program surveillance and enforcement.

The National Air Transportation Inspection Program (NATI) was conducted between March and June 1984 to review every aspect of the operations of scheduled or larger aircraft airline operations. Results of those inspections dictated in-depth safety compliance inspections of 43 air carriers. Deficiencies noted resulted in corrective action by the carrier or termination of operations.

A further review of safety compliance by commuter air carriers, air taxis, and general aviation, called the General Aviation Safety Audit, was begun in July 1984. This project is not expected to be completed until early 1986.

In the meantime, a Safety Activity Functional Evaluation (Project SAFE) was initiated to review the entire safety inspection program to determine whether or not the aviation safety inspector work force is functioning as efficiently and effectively as possible. A contractor was selected by the Office of Personnel Management to conduct that effort. Their report of findings and recommendations is due to the agency by September 1985. Necessary changes to operating procedures, policies, and training resulting from that project will be refined and implemented as rapidly as possible.

The office of Aviation Safety is responsible for the safety analysis function within the FAA.

The Aviation Standards organization initiated the development of the Aviation Safety Analysis System (ASAS) to provide an effective and timely mechanism for the collection, storage, dissemination and analysis of data. The system is intended to provide field personnel and other agency organizational elements with improved access to more reliable and timely certification and safety information, and with the capability to retrieve and to conduct more effective analysis of potential safety issues.

Four ASAS Mark I subsystems are now fully operational, and implementation of all remaining Mark I subsystems is scheduled to occur before the end of calendar year 1985. An additional ten subsystems will be developed and implemented over the next two to three years. Experience has proven that, in the 12-18 month period following subsystem implementation, management and end-user proficiency and data base size and integrity are sufficient to generate savings and support meaningful data retrieval and analysis.

While the FAA should begin to see a significant return on its investment in late FY 1986, projected personnel savings have already been applied to the FAA budget as a result of actual and planned subsystem implementation. Furthermore, those subsystems which are now operational are rapidly becoming a valuable management tool and are providing the timely and accurate information for which they were designed.

Near and long-term benefits will be derived through reductions in, and avoidance of, program costs. These savings will result from the elimination of manual data gathering, processing and reporting methodologies, and a curtailment of staffing increases necessary to support the forecasted growth in aviation.

In order to maintain stride with anticipated growth trends in aviation and computer technologies, additional terminals and host computer capacity will be acquired, as needed. Specifically, acquisition of additional ASAS microcomputer hardware, including the upgrade of existing terminals and contractual on-site maintenance, is planned through FY 1987 at a cost of about $6.7 Million. However, costs associated with the upgrade or maintenance of host computers, also in support of other FAA data bases, will not be borne by the ASAS program.

SENATOR ANDREWS: In light of the emphasis the DOT Secretary has placed on alcohol and seat belt safety, what procedures has NHTSA put in place to measure the effectiveness of the 402 grant program? For instance, (1) has NHTSA established a procedure for disseminating successful and unsuccessful highway safety projects throughout the States?, and (2) has NHTSA developed a procedure for identifying State highway safety evaluation projects, determining rate of progress on these projects, and measuring their effectiveness?

ANSWER: NHTSA has several procedures in place to measure the effectiveness of the 402 grant program. Each State, as part of the requirement of its Highway Safety Plan (HSP), submits an annual HSP evaluation report to NHTSA, reporting accomplishments of the previous year. A part of this report addresses significant projects underway or completed, including successful projects and those that should not be continued or repeated. We have also in place a computerized National Project Reporting System (NPRS), which reports all projects underway in a State, giving us a procedure for identifying and tracking progress. In addition to interchange of project information within each NHTSA Region, we prepare annual Program Area Reports, which include noteworthy project accomplishments throughout the country. A separate report is prepared for Alcohol and Occupant Protection. These reports are distributed to all State highway safety agencies, with sufficient copies for State and local agencies.

At the Regional level, staff assigned to the States periodically monitor progress and effectiveness of projects, utilizing the information furnished through our computerized NPRS mentioned above. Evaluation requirements are established at the time the projects are formulated by the States, and these requirements form the basis for much of this monitoring effort.

As part of our headquarters assistance in the alcohol area, we have identified, thus far, 16 "Target of Opportunity" 402 projects throughout the country for evaluation and management support. This consists of assistance in project design, with a strong evaluation component for measuring progress and accomplishments, and includes specific reporting requirements.

SENATOR ANDREWS: Given that Congress wanted the National Driver Register System (NDR) upgraded, so that States have immediate access to drivers registrations, what progress has been made?

ANSWER: The design for the new Problem Driver Pointer System is complete. The Final Rule is in progress, and the Request for Proposals to solicit the four pilot States has been issued.

The Advisory Committee has met three times, and made significant recommendations at its last meeting in November, primarily concerning:

a. a revised schedule in view of the evidence supporting the need for more time at both the State and Federal levels; and

b. an interim rapid response capability to satisfy State requirements pending the development of the full Problem Driver Pointer System.

Thus, several provisions of the statute have been met, implemented or put in progress:

a. the Advisory Committee was established;
b. Rulemaking is nearly complete;
c. the National Transportation Safety Board and the Bureau of Motor Carrier Safety are now routinely using the National Driver Register, as authorized in Section 206 of the law; and
d. solicitation of the participation of four States in a pilot test has begun.

In addition, four States are currently transmitting records to, and receiving output from the National Driver Register using the Remote Job Entry system, which provides the States with overnight service. Additional States are presently modifying their systems to avail themselves of this next-day service.

ANTICIPATED EFFICIENCIES

SENATOR ANDREWS: Usually in proposed mergers the petitioning party is required to state "anticipated efficiencies." Has the Department received from Norfolk Southern data or information on "anticipated efficiencies" due to a Norfolk Southern-Conrail merger?

ANSWER: Mr. Robert B. Claytor, Chairman and Chief Executive Officer of the Norfolk Southern Corporation, in his statement before the Senate Committee on Commerce, Science and Transportation, explained the potential efficiences and benefits due to the Conrail sale.

Norfolk Southern acquisition of Conrail will create a system roughly comparable to CSX, operating over high-density routes which, like CSX's can effectively compete for both north-south and east-west flows. A number of important communities that are now dependent on CSX will gain a new competitive alternative with Norfolk Southern-Conrail service to and from the southeast. These locations include Philadelphia, Pennsylvania; Baltimore, Maryland; Charleston, West Virginia; Dayton, Ohio; Grand Rapids, Michigan; Rochester, New York; Terre Haute, Indiana; Wilmington, Delaware; and Youngstown, Ohio.

The improved service to these new markets will permit Norfolk Southern greater access to traffic where it can not now compete. The additional traffic will increase density on Norfolk Southern lines. An increase in traffic density, in turn, encourages line improvements and additional through trains. Improved track and more trains mean speedier service to customers and Norfolk Southern in an even stronger position to ensure the survival of Conrail lines both now and into the future.

In addition, north-south shippers in the Northeast will now be able to ship single line rates from the Northeast to the South, where previously they had to ship joint rates. Joint rates are more expensive, involve time loss in yards and switching charges. This merger will bring lower shipping rates to north-south movements, particularly trailer-on-flat-car movements, within the combined system. Norfolk Southern will also reopen scores of gateways and joint routes that Conrail closed in 1981.

Further, there are benefits to be shared by the Guilford System (GTI) and the Pittsburgh and Lake Erie (P&LE). As a result of the Norfolk Southern acquisition of Conrail, Guilford will gain direct access to the important gateways of Chicago and St. Louis, and the P&LE will be able to offer the benefits of single-line service to some of its current important shippers. Both railroads will also be in an improved position to provide competition to Norfolk Southern-Conrail and a healthy rail industry in the Northeast.

ALTERNATE SCENARIOS

SENATOR ANDREWS: Have any estimates been made of cost savings under other scenarios--such as CSX-Conrail, split of Conrail, or other options?

ANSWER: No estimates have been made, since these were not realistic alternatives. CSX did not make a bid, and NERSA precludes selling Conrail piecemeal if it can be sold intact.

SENATOR ANDREWS: Since these impacts are considered in merger hearings, shouldn't they be considered in deciding on a disposition of Conrail?

ANSWER: Generally, the ICC evaluates only the merger proposed by the applicants; it does not analyze other speculative combinations.

SENATOR ANDREWS: Have you made this information public? Do you believe Congress should proceed without such information?

ANSWER: No information on these alternatives has been developed.

OPERATING PLANS, TRAFFIC FLOWS, AND FINANCIAL DATA

SENATOR ANDREWS: Other mergers usually provide proposed operating plans, traffic flows and financial data. Has the Department received or prepared such information for the proposed Conrail sale?

ANSWER: The Department has not requested or received such information for the proposed sale of Conrail. When we requested the Department of Justice to review this sale for its competitive impact, we fully expected them to conduct a review equivalent to that they normally do for a merger. The Department of Transportation has analyzed potential traffic diversions from other carriers, and provided that information to Justice. We have also analyzed the financial implication of Conrail's standing alone and the transaction under varying financial assumptions. We have not been disappointed. Justice requested and received from Norfolk Southern, and subsequently analyzed, a very extensive array of information covering all three areas mentioned in your question. Justice is currently awaiting similar information from the Guilford and P&LE representatives so that it can determine whether these carriers can meet the stringent requirements governing divestitures that it, Justice, laid out in its report to the Department last January.

DOT STUDY OF PROPOSED LINE DIVESTITURES

SENATOR ANDREWS: The Justice Department conditioned its approval of the Norfolk Southern bid based on anti-competitive aspects that could be alleviated by certain divestitures. Has the Department studied the proposed divestiture of track to Guilford Industries and the Pittsburgh and Lake Erie (P&LE)? What were the results of that study?

ANSWER: The Department has received from the Norfolk Southern and Conrail confidential traffic density maps and otherwise has available to it detailed traffic information which indicate that most of the proposed lines currently carry significant volumes of tonnage. Other information we have or have received indicates that these lines have the capacity to handle the higher traffic levels that Guilford and the P&LE intend to attract.

METHODOLOGY FOR COMPETITIVE EFFECT ANALYSIS

SENATOR ANDREWS: In determining the competitive effect of the merger, a certain methodology was used. In brief, markets are identified wherein both Conrail and Norfolk Southern participated in 10 percent of the rail movements and where together the two railroads accounted for at least 50 percent of all rail movements in the market. After certain other "screens" were used, 39 counties in 21 states were identified as possibly suffering a significant anticompetitive effect. Are you familiar with these procedures? Are they the same as employed in other merger cases? Why is a 50 percent market share used rather than 100 percent? If 90 percent of rail movements in a given market were controlled by the two merging lines and 10 percent moved over a third line, would there be a potential anticompetitive effect? Why?

ANSWER: Yes, I am familiar with these procedures, and they have been used in past merger cases. It is a customary technique to use in looking at proposed mergers to get at the subject of affected movements from sources to markets within and outside the territory served by the two carriers so as to present as global a view of the competitive implications as possible. A 50 percent aggregate market share is used as a threshold level for identifying markets which would possibly suffer a significant anticompetitive effect.

Thus, for example, if 90 percent of rail movements in a given market were controlled by the two merging lines (each of which participated in at least 10 percent of the movements) and 10 percent moved over a third line, there would be a potential anticompetitive effect because of the rebuttable presumption that the 90 percent share carrier had significant pricing leverage and the 10 percent share carrier did not. Moreover, the reduction from three competitors to two could present a greater risk of conscious (or unconscious) parallel pricing. On the other hand, mitigating evidence such as truck or barge competition, long term shipper contracts, exclusive shipper access by a non-merging carrier, could serve to constrain the merging carriers' pricing even if they had a large market share.

ABILITY OF GUILFORD & P&LE TO PROVIDE COMPETITIVE SERVICE

SENATOR ANDREWS: Does the Department believe that the proposed combinations could provide competition in the areas they operate?

ANSWER: Yes, the Department firmly believes that the expanded systems created by the divestitures will be able to provide healthy competition to a combined Norfolk Southern-Conrail system.

Guilford will, in addition to existing on-line traffic on the acquired lines, obtain a system of lines ideally suited to its east-west traffic flows. Guilford must now hand much of its outbound traffic to either Canadian carriers or Conrail, both of which are competing for business in Guilford's home territory. In addition, many shippers who would like to give Guilford traffic in order to avail themselves of competition cannot now do so because the joint service this would entail is either unavailable via Conrail or non-competitive in time via Guilford's present connections at Buffalo. With the new lines at Buffalo, New York, Guilford will be able to "long haul" traffic all the way to the major gateways of Chicago and St. Louis to increase significantly its revenue share and volume on the lines, and to compete actively with a combined Norfolk Southern-Conrail system.

Pittsburgh & Lake Erie will benefit by obtaining windows of opportunity which it does not have, since it is surrounded by Conrail with whom it must compete for its very existence. Its new route structure will allow it direct, cost-effective access to the multiplant operations of its principal customers, such as steel mills, which lie outside its present system and have been foreclosed from access by elimination of its historic joint service arrangements. In addition, Pittsburgh & Lake Erie will be in a position to compete for new traffic including unit coal trains and finished steel which is now handled by other railroads or by truck.

REVIEW OF DIVESTITURE PROPOSALS

SENATOR ANDREWS: In the proposed divestiture plan, has the Department looked at or will it suggest that Justice examine such factors as managerial resources, terminal arrangements, interchange possibilities, access to markets, route and car supply in deciding the effective competition issue? If not, why not?

ANSWER: DOJ is reviewing the proposals to ensure that they will allow effective competition to be maintained. As part of that review, the parties are submitting extensive operating plans containing, among other factors, the details of the items you have mentioned.

CONRAIL AND USRA

SENATOR ANDREWS: Does Norfolk Southern, even with the divestitures, need special exemption from the antitrust laws? If so, why? If not, why does the Department's draft legislation provide such antitrust immunity to the merger?

ANSWER: Yes, Norfolk Southern does need the entire transaction to be exempt from the antitrust laws. Otherwise, opponents of the sale could tie it up in court for years entirely without regard to the merits of their claims. Congress recognized this hazard when NERSA was passed and responded by exempting the sale from judicial review. The Department's draft bill is designed to perfect that immunity for the specific facts of the sale, divestitures, and coordination of the merging railroads' operations. We want to assure that the divestitures required by the Justice Department and the coordinated operation of Conrail with Norfolk Southern's other properties are explicitly covered by the exemption so that potential litigants cannot argue that they are not covered. This is exactly the same scope of protection the Interstate Commerce Commission would confer if it were to decide a merger case and attach conditions similar to the divestitures.

ICC REVIEW OF CONRAIL SALE

SENATOR ANDREWS: Do you believe that the proposed transaction has had the normal and fair share of scrutiny a merger of this size deserves? Would the Department be against Interstate Commerce Commission review of the merger? If against ICC review, why?

ANSWER: In the Northeast Rail Service Act, the Congress stipulated that it did not want ICC review of a Conrail sale. This was done for very good reason. Conrail has a unique status as a Government-owned railroad into which the American taxpayer has invested approximately $3.2 billion plus several additional billions of dollars in labor protection and workforce reduction programs, transferral of commuter service to local operations, and so forth. In directing the Secretary to sell Conrail and to do so competitively, the Congress stipulated that the ICC not review the Conrail sale. Additionally, in re-examining the issue of its involvement in the proceeding one year ago almost to the day, the Commission's Office of Legislative Counsel reviewed the transfer provisions of the Northeast Rail Service Act of 1981 and concluded: "The statutory scheme envisions an expedited process with clearly-defined time periods for each step in the process. To interpret these provisions as permitting a subsequent separate review under 49 USC §11343 et seq. in the event Conrail is acquired by a rail carrier would, we believe, be inconsistent with the intent of Congress in enacting NERSA. The Congress wished to perform this role itself. I believe that the DOJ and DOT analyses and the intense Congressional scrutiny that is ongoing ensure that this transaction will be reviewed far more thoroughly than any railroad merger that the United States has seen.

P&LE AND GUILFORD DIVESTITURE AGREEMENT AND SERVICE

SENATOR ANDREWS: The P&LE has total trackage of 500 miles and has lost money in the recent past. Guilford Industries' interests are primarily in New England and with the Delaware and Hudson rail lines in New York. What happens to the divestiture agreement if either or both of these operators cannot provide service?

ANSWER: Both the P&LE and Guilford systems will be able to provide service. Aided by the divestitures, the resultant rail systems will be well-configured to meet their needs. The divested lines will strengthen these mid-size regional railroads. Many routes that formerly were not available to these carriers will be created, enabling these carriers to once again participate in an increased amount of traffic, thereby strengthening their financial position. In fact, the Pittsburgh and Lake Erie may well fail without the curative measures that these line divestitures provide. However, if all measures fail and P&LE or Guilford cannot provide service, their resale or abandonment will be subject to ICC due process. To the extent that these are inherently viable lines, they would probably be reoffered, under ICC procedures, for other carriers.

CAPACITY OF THE DIVESTED LINES

SENATOR ANDREWS: Can the divested lines handle the cargo, traffic volume, and provide the service necessary to effectively compete with the Norfolk Southern-Conrail combo?

ANSWER: The divested lines are in very good condition and fully capable of handling the cargo and traffic volumes Guilford and P&LE will bring. The capacity of these lines is reflected in part by the operating speeds allowed. These speeds are as follows:

- The Buffalo-to-Cleveland line is 60 miles-per-hour mainline track, signalled and in superb operating condition. It is certified by FRA for operation at speeds in excess of the 40-55 miles-per-hour at which rail freights normally move.
- The connecting link from Crestline Junction (Cleveland)-to-Chicago is high speed passenger track, certified by FRA for passenger operations up to 79 miles-per-hour. Guilford's authorized operating speeds on this track, which is the central portion of the divestiture, equal or exceed authorized speeds on all competing track.
- The Guilford section from Delphos, Ohio-to-St. Louis is certified for operations at 30-35 miles-per-hour. There is rehabilitation needed for portions of this track, but it is conventional tie and ballast work, not structural rehabilitation. These lines are equipped mainly with 115 lb. steel (i.e., heavy duty mainline) rail. It will require some tie replacement and ballast work, which Guilford plans to do as part of the purchase agreement.
- The lines divested to the Pittsburgh & Lake Erie Railroad Company are the old Wheeling and Lake Erie lines. This entire system is FRA certified for 40 miles-per-hour mainline freight operation. This track could probably be certified for higher operating speeds if the parties choose to request it.

CONDITION OF LINES PROPOSED FOR DIVESTITURE

SENATOR ANDREWS: What shape are the lines in that are proposed for divestiture? Are they more than two lines of rust? How many other lines along the same corridors will the divested lines compete with? How many ton-miles do these lines presently carry versus the lines they will compete against?

ANSWER: The physical condition of the lines that are proposed for divestiture is very good. The entirety of the divested system is mainline track capable of mainline operating speeds. The only section in need of maintenance, the Delphos-to-St. Louis section, which is slated to be purchased by Guilford, needs no structural changes, only conventional tie and ballast work. That work is well within Guilford's existing capacity, and they have, in fact, agreed to perform it as part of the purchase agreement.

The lines proposed for divestiture to both Guilford and P&LE have substantial traffic which will serve as a base to which can be added the traffic they control in their own service territories. Information concerning the specific volume of traffic (i.e., ton-miles) carried over any given line is information which the railroads deem confidential.

CONTINUING COSTS OF DIVESTED LINES

SENATOR ANDREWS: What are the costs associated with keeping the divested lines competitive (capital investment and maintenance costs)?

ANSWER: The approximately 1700 miles of rail line proposed to either be conveyed, to be opened to trackage rights, or to be divested through lease transfer will strengthen Conrail's regional competitors, like the Guilford System and the Pittsburgh and Lake Erie, by lengthening their haul and providing them with new markets. We believe this longer haul will more than offset additional operating costs by allowing Conrail's competitors to retain the bulk of the revenues attributable to the longer haul traffic. This extension of haul will particularly benefit the Pittsburgh and Lake Erie, currently burdened by a surplus of equipment and motive power. We are confident that ultimate negotiation between Norfolk Southern and the proposed new rail entrants will result in the divestiture arrangements that will assure long term viability for those entrants.

FUNDING REQUIREMENTS FOR DIVESTITURE

SENATOR ANDREWS: Where will Guilford and Pittsburgh and Lake Erie get the funds to make these lines competitive? What revenues will accrue to Guilford and Pittsburgh and Lake Erie for running these lines (net of capital and operating costs)?

ANSWER: The introduction of competitive rail service to twelve Midwestern markets by virtue of the proposed divestitures will generate substantial incremental revenues to the Pittsburgh and Lake Erie and Guilford, now lost because of a lack of market access. In the case of Pittsburgh and Lake Erie, their revenue increases are a requisite to long term survival, in view of localized traffic decline in their current service area. Divestiture costs for

Pittsburgh and Lake Erie are expected to be financed through issuance of new, equity capital financing, in anticipation of the substantial revenue increase expected by longer hauls and better use of surplus equipment. The Guilford system has financed the rehabilitation of the Delaware and Hudson and is expected to finance the divested lines from the sizeable cash flow increment that will result from the acquisition of the divested lines. About 1,100 miles of trackage rights are part of the package, and little outlay would be required for those operations.

CONRAIL AND USRA

SENATOR ANDREWS: Will the Justice Department or the Department of Transportation or both be a party to any divestiture agreements entered? Are these agreements now public? Will they be made public for Congressional review in order to best evaluate the sale?

ANSWER: Neither department will be a party to any divestiture agreements. The agreements are not now public; they have been signed. We expect the divestiture agreements will or have been given to Congress, but it is possible the parties will ask Congress to keep some elements of the agreements confidential.

REQUIREMENTS FOR DIVESTITURE

SENATOR ANDREWS: Do the lines meet the requirements for divestiture as first stated by the Justice Department?

ANSWER: The Justice Department defined certain markets in which the Norfolk Southern-Conrail acquisition would reduce the number of competing carriers from 3 to 2, or from 2 to 1. It required that a new carrier be brought into those markets to restore competitive access to its premerger level. This carrier must be vested with interconnections and financial capability sufficient to provide long-term competitive service.

While the Justice Department defined the markets which had to benefit from divestiture, it did not mandate which lines would be subjected to divestiture. That determination was made in negotiations between Norfolk Southern Corporation and Guilford Transportation Industries, Inc., and the Pittsburgh & Lake Erie Railroad. Justice did, however, retain jurisdiction over the matter. The Secretary cannot execute the final documents until the Antitrust Division has examined the divestiture agreement, and the Attorney General has certified that the lines transferred do indeed satisfy Justice's requirements.

STUDIES BY THE DEPARTMENT

SENATOR ANDREWS: Has the Department done any long range studies on the likely impacts of the proposed merger? What were the results? If not, will there be a long range study available for Congress?

ANSWER: The Department has studied the potential impacts on other railroads of a Norfolk Southern purchase of Conrail. This study took the form of what we refer to as diversion analyses in which we derive estimates of the possible amounts of traffic that could be diverted to the hypothetically newly merged rail carriers from other rail carriers. But as to the competitive implications of this merger, the Department delivered that study to the Department of Justice in compliance with Section 408(c) of the Northeast Rail Service Act.

FEDERAL RAILROAD ADMINISTRATION'S DIVERSION STUDY ON NORFOLK SOUTHERN/CONRAIL PURCHASE

JUN 28 1985

The Honorable John C. Danforth
Chairman
Committee on Commerce, Science,
  and Transportation
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In response to your staff's request, I am enclosing FRA's basic diversion analysis on the Norfolk Southern/Conrail purchase. The enclosed package includes numbers for all carriers under alternate assumptions, plus background data on their derivation. Our study is based on a matrix analysis of possible traffic routings and relationships, a technique we believe to be the most reliable and commonly accepted.

Specific data for carriers, under varying assumptions, is enclosed; for the purpose of overview, however, our "base case" on the major carriers can be summarized as follows (with diversions shown as a percentage of company revenues):

MIDWESTERN CARRIERS

Milwaukee Road	0.7%
ICG	1.3%
Katy	0.0%
C&NW	1.2%
Soo	0.0%
KCS	less than 1.0% *

WESTERN CARRIERS

Burlington Northern	0.1%
Santa Fe	0.7%
Southern Pacific	less than 0.1%
Union Pacific	0.8%

CONRAIL REGIONAL CARRIERS

Guilford	4.2% **
P&LE	2.6% **
CSX	1.6%
GTW	5.3%

There are two qualifications I should place on these numbers. The first deals with confidentiality of the basic data on specific movements that underlies the final numbers.

Much of that data is drawn from the Interstate Commerce Commission's Waybill File which is collected from all railroads by the Commission under strict confidentiality guidelines and provided to this Department under a similar confidentiality agreement. Obviously, you, your Committee, and your Committee staff are absolutely entitled to this data and we have no hesitation in sharing it. We ask, however, that in light of certain statutory proscriptions, the Committee treat this component data as confidential, for the Committee's use, and not for public dissemination. The statutes I refer to are as follows:

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* Reflects the impact of the NS/KCS gateway agreement. Prior to that agreement, FRA had estimated a 4.8 percent diversion from KCS.

** The Guilford and P&LE figures assume no divestitures. Since these figures were calculated, Guilford and P&LE have reached agreements to acquire roughly 1700 miles of NS/Conrail line. As a result of those divestitures, we believe there would be no net diversion of traffic from either carrier.

> A person that knowingly discloses confidential data made available to such person under section 11165 of this title (relating to Waybill File information released by the ICC) by a rail carrier ... shall be fined not more than $50,000. (49 U.S.C. 11910)

Data received from the railroads is also protected by the Trade Secrets Act (18 U.S.C. 1905) which provides penalties of a fine of not more than $1,000, imprisonment for not more than one year, and removal from office of employment for unlawful release of protected information.

The purpose of these provisions, of course, is to recognize the fact that data on specific movements is trade data, public dissemination of which could harm both shipper and carrier. It has been our policy, at the request of a railroad, to provide a copy of the portion of our diversion analysis pertaining solely to it. We have done that because we see no breach of confidentiality or prospect of competitive harm in giving a railroad our analysis of its own traffic data. Obviously, you will have to confront some of the same difficult choices in interpretation that we have confronted in dealing with this data. We respect the discretion and sound judgement of the Committee, and cite these provisions solely to fulfill our own obligation to ensure that all who receive the data underlying our analysis are informed of the provisions relating to release of waybill data.

I should also make note of the fact that these are "gross" diversion numbers. While they account for the relative leverage of each of the two carriers meeting at a gateway, and define the impact of that leverage on the traffic each could tender or withhold, they do not account for rate or service adjustments the losing carrier might make in order to recapture or retain its market share. Nor do they account for the impact of such adjustments on other traffic. In reality, carriers facing potential diversions do in fact alter prices and provide better service options to keep their customers. As CSX pointed out in arguing for approval of the CSX/ACBL merger,

> As a result of the increased efficiency and more competitive service [from that acquisition], other rail and water carriers will be spurred to become more efficient in general, to the benefit of the shipping public. (ICC Finance Docket #30,300, November 4, 1983)

For this reason, we believe these base case diversion estimates somewhat overstate the actual diversion impact, while understating consumer benefit.

From a broader policy perspective, analyzing diversion data involves some degree of tradeoff. Virtually every action a railroad takes--in pricing and service as well as structure--carries a potential for diverting traffic from other carriers. And this is frequently a beneficial process, one which puts pressure on other carriers to respond with better price and service options in order to retain their traffic. The consumer is the primary beneficiary of this process.

But there are tradeoffs involved. On one hand, diversions are clearly a measure of consumer benefit. Particularly in a case like the NS/Conrail transaction, where better single line service is the cause of the diversion, it is the merged carrier's better pricing and service capacity that lures the traffic from one carrier to another. As CSX's expert witness, Richard J. Barber, testified in the CSX merger case,

> ... rail diversion alone provides no meaningful insight into the consolidation's prospective impact on competition. Of crucial importance is the reason (or reasons) why such diversions may occur. Here ... such diversion to CSX from other railroads as may be anticipated is primarily the result of the expanded single line service CSX will provide. .... the traffic and revenue which CSX will divert from other railroads (and other modes) is but a valid quantitative measurement of the merger's pro-competitive public benefits.

At the same time, we are cognizant of the fact that diversions carried to an extreme can threaten jobs, and even the continued existence of a carrier. Weighing the net impact of diversions involves some balancing of that risk against the defined consumer benefit. In this circumstance, we believe that balancing gives strong support to the NS/Conrail acquisition.

I hope the enclosed data will be helpful to your Committee in its analysis of the proposed Conrail sale. Let me reiterate again that both I and my staff are at your disposal for further discussion of this, or any other issue. Obviously, any diversion analysis involves certain assumptions on actions that will be taken by the carriers involved. I would be happy to make my staff available to yours, to walk through any assumptions on traffic movements that underly this data.

Yours very truly,

John H. Riley

John H. Riley
Administrator

Enclosures

QUESTION: How did DOT estimate traffic diversions?

ANSWER:

FRA staff estimated traffic diversions by examining each record in the 1983 ICC Waybill Sample (over 200,000 records) to determine whether the shipment represented by each Waybill could be hauled on a single line basis by the merged Norfolk Southern-Conrail system. Only joint line shipments--these involving two or more railroads were considered as candidates for diversion. Single line shipments--these involving one carrier--were assumed to be non-divertible. FRA staff further examined all waybills in which Conrail or Norfolk Southern participate, and determined all cases where the new entity could increase its revenue division by hauling the shipment farther toward its final destination.

In order to bound the estimates, FRA staff considered bottom and upper limits of potential diversion of traffic. The difference between the two estimates constitutes those movements that could be hauled on a single line basis before the merger but, for whatever reason, are hauled on a joint line basis. These estimates of diversion referred to as a base case and liberal case are shown in Tables 2 and 3, respectively. The right most column in these tables shows the impact on each railroad that is not included in the merger as a percent of the railroad's total annual revenue.

TABLE 1--CR/NS DIVERSION, 1983 BASED (Base Case Estimate)

RAILROAD	SINGLE LINE CARS	SINGLE LINE REVENUE	EXTENDED HAUL CARS	EXTENDED HAUL REVENUE	TOTAL CARS	TOTAL REVENUE	PERCENT TOTAL REVENUE
ATSF	1,400	1,025,000	33,700	13,617,000	35,100	14,642,000	0.7
BLE	1,700	707,000	0	0	1,700	707,000	0.1
BN	4,500	4,282,000	0	0	4,500	4,282,000	0.1
CSX	74,100	55,248,000	17,200	14,887,000	91,300	70,135,000	1.6
CNW	1,900	1,697,000	18,100	7,990,000	20,000	9,687,000	1.2
GILF 1/	2,700	1,981,000	11,500	9,384,000	14,200	11,365,000	4.2
GTS	31,200	15,821,000	0	0	31,200	15,821,000	5.3
ICG	7,000	6,492,000	5,000	3,946,000	12,000	10,438,000	1.3
MILW	3,200	1,840,000	1,300	998,000	4,500	2,838,000	0.7
PLE	3,300	1,239,000	0	0	3,300	1,239,000	2.6
RFP 2/	16,000	5,451,000	8,100	2,682,000	24,100	8,133,000	14.2
UP	3,800	2,453,000	36,900	27,121,000	40,700	30,574,000	0.8
OTHER	-	6,780,000	-	-	-	6,780,000	-
TOTAL	-	105,016,000	-	80,625,000	-	185,641,000	-

1/ Total revenue for Guilford estimated. MEC does not file QCS reports.
2/ Total revenue from submission of RFP president. RFP does not file QCS reports.

TABLE 2--CR/NS DIVERSION, 1983 BASED (Liberal Estimate)

RAILROAD	SINGLE LINE CARS	SINGLE LINE REVENUE	EXTENDED HAUL CARS	EXTENDED HAUL REVENUE	TOTAL CARS	TOTAL REVENUE	PERCENT TOTAL REVENUE
ATSF	2,600	1,679,000	33,700	13,617,000	36,300	15,296,000	0.7
BLE	5,000	1,729,000	0	0	5,000	1,729,000	2.6
BN	5,900	5,536,000	0	0	5,900	5,536,000	0.1
CSX	132,700	91,271,000	17,200	14,887,000	149,900	106,156,000	2.3
CNW	6,700	4,780,000	18,100	7,990,000	24,800	12,770,000	1.6
GILF 1/	3,900	2,965,000	11,500	9,384,000	15,400	12,349,000	4.5
GTS	58,100	28,143,000	0	0	58,100	28,143,000	9.3
ICG	12,900	11,155,000	5,030	3,946,000	17,900	15,101,000	1.9
MILW	6,000	3,358,000	1,300	998,000	7,300	4,356,000	1.1
PLE	4,600	2,028,000	0	0	4,600	2,028,000	4.2
RFP 2/	18,900	5,784,000	8,100	2,682,000	27,000	8,466,000	14.7
UP	5,200	3,579,000	36,900	27,121,000	42,100	30,700,000	0.8
OTHER	-	21,900,000	-	-	-	21,900,000	-
TOTAL	-	183,907,000	-	80,625,000	-	264,532,000	-

1/ Total revenue for Guilford estimated. NEC does not file QCS reports.
2/ Total revenue from submission of RFP president. RFP does not file QCS reports.

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2/08/85          INTERLINE MOVES IN THE NS/CR MARKET CONTAINING AT LEAST ONE NON NS/CR RAILROAD          PAGE     1
                                          POTENTIAL CR/NS LOCAL

                                 C R      C R      N S      N S
                                C A N    C A N    C A N    C A N                                      RR
           ROUTE               ORGNATE  TRMNATE  ORGNATE  TRMNATE      CARS          TONS           REVENUE

  CR  NS  RR                     YES      NO       NO       YES          860        39,060          709,676
  CR  RR                         YES      NO       NO       YES       16,736       899,372       17,497,979
  CR  RR  NS                     YES      NO       NO       YES        1,000        50,200          641,160
  NS  RR                         NO       YES      YES      NO        31,300     2,478,960       19,827,760
  NS  RR  CR                     NO       YES      YES      NO         4,400       379,300        1,495,400
  RR                             NO       YES      YES      NO         2,660       124,100        3,828,600
  RR                             YES      NO       NO       YES        8,150       338,733       15,374,714
  RR  CR                         NO       YES      YES      NO        31,045     1,954,200       20,458,669
  RR  CR  NS                     YES      NO       NO       YES           40         1,600           19,120
  RR  CR  RR                     NO       YES      YES      NO           200        15,900          454,100
  RR  CR  RR                     YES      NO       NO       YES          120         7,440          114,000
  RR  NS                         YES      NO       NO       YES       23,196       925,112       16,139,404
  RR  NS  CR                     NO       YES      YES      NO           200         9,900          110,700
  RR  NS  RR                     NO       YES      YES      NO           100         2,600          215,400
  RR  NS  RR                     YES      NO       NO       YES          220        10,500          204,960

FINAL TOTALS                                                         121,027     7,845,305      185,815,86[illegible]

       15   RECORDS TOTALED
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1983 Waybill Sample

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INTERLINE MOVES IN THE NS/CR MARKET CONTAINING AT LEAST ONE NON NS/CR RAILROAD
POTENTIAL CR/NS LOCAL

ROUTE	CR CAN ORIGINATE	CR CAN TERMINATE	NS CAN ORIGINATE	NS CAN TERMINATE	CARS	TONS	RR REVENUE
CR NS RR	YES	NO	NO	YES	840	39,040	780,476
CR NS RR	YES	NO	YES	YES	40	2,970	8,740
CR RR	YES	NO	NO	YES	10,736	399,372	17,497,970
CR RR	YES	NO	YES	YES	4,712	191,452	5,044,440
CR RR	YES	YES	NO	YES	4,170	193,500	2,652,324
CR RR	YES	YES	YES	YES	2,343	110,500	946,406
CR RR NS	YES	NO	NO	YES	1,000	50,200	441,100
CR RR NS	YES	NO	YES	YES	72	7,100	54,270
CR RR NS	YES	YES	NO	YES	120	9,400	67,700
NS RR	NO	YES	YES	NO	31,300	2,470,900	19,827,700
NS RR	NO	YES	YES	YES	41,605	3,339,500	23,097,030
NS RR	YES	YES	YES	NO	900	50,200	451,520
NS RR	YES	YES	YES	YES	740	35,000	617,770
NS RR CR	NO	YES	YES	NO	4,400	379,300	1,495,400
RR	NO	YES	YES	NO	2,640	124,100	3,820,400
RR	NO	YES	YES	YES	4,825	250,025	4,929,710
RR	YES	NO	NO	YES	8,150	330,733	15,374,710
RR	YES	NO	YES	YES	7,450	293,740	7,033,300
RR	YES	YES	NO	YES	1,400	62,620	1,077,000
RR	YES	YES	YES	NO	2,670	164,330	4,440,570
RR	YES	YES	YES	YES	4,320	207,495	5,191,940
RR CR	NO	YES	YES	NO	31,045	1,954,200	20,450,600
RR CR	NO	YES	YES	YES	7,275	532,635	4,330,810
RR CR	YES	YES	YES	NO	14,000	1,010,000	7,217,000
RR CR	YES	YES	YES	YES	2,100	133,400	924,000
RR CR NS	YES	NO	NO	YES	40	1,400	13,120
RR CR RR	NO	YES	YES	NO	200	15,900	454,100
RR CR RR	YES	NO	NO	YES	120	7,440	114,000
RR CR RR	YES	YES	YES	YES	100	7,400	64,200
RR NS	YES	NO	NO	YES	23,196	925,112	10,109,400
RR NS	YES	NO	YES	YES	12,996	405,540	6,454,000
RR NS	YES	YES	NO	YES	1,900	73,300	1,395,400
RR NS	YES	YES	YES	YES	920	50,000	495,700
RR NS CR	NO	YES	YES	NO	200	9,900	110,700
RR NS CR	YES	YES	YES	NO	200	12,400	62,900
RR NS RR	NO	YES	YES	NO	100	2,600	219,400
RR NS RR	YES	NO	NO	YES	720	10,500	290,900
RR NS RR	YES	NO	YES	YES	100	7,100	140,500
RR NS RR	YES	YES	YES	NO	1,400	121,200	1,107,000
FINAL TOTALS					237,075	14,045,510	183,907,379

39 RECORDS TOTALED

1983 WAYBILL SAMPLE 628

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CONRAIL AND USRA

SENATOR ANDREWS: Does divestiture violate the NERSA goal of selling Conrail as a complete entity? If no, why not? If yes, why proceed with this proposal? Please explain your answer.

ANSWER: No, the divestitures proposed to satisfy the Justice Department's requirements do not violate the NERSA goal of selling Conrail as a complete entity. First, we are selling the government's 85 percent of Conrail's common stock as NERSA directs us to do, and we are not making any divestitures. The divestitures are being made from the Norfolk Southern system once Conrail has been sold to it. Second, most of the lines to be divested are from Norfolk Southern's present properties rather than from Conrail. Only 2.3 percent of Conrail's system will be sold to Guilford and the Pittsburgh & Lake Erie. Third, these divestitures bear no relationship to an asset sale. In an asset sale, after trying and failing to sell the common stock the government would put all of Conrail's assets and its attendant freight service responsibilities up for sale piecemeal. In contrast, the divestitures required by the Justice Department involve only a tiny fraction of Conrail's assets that were selected specifically to address defined antitrust issues and no lines or employees would be left unaddressed as Congress contemplated might be the case in a transfer of service.

SENATOR ANDREWS: What is the function of the Special Court as proposed by the Department's legislation?

ANSWER: The Special Court will have exclusive jurisdiction over any legal actions among the parties to this transaction, except an action by Norfolk Southern against the United States to enforce the tax representations which would be brought before the Claims Court.

SENATOR ANDREWS: Section 121 of the Department's legislation extends the jurisdiction of the Special Court to review actions arising under the legislation, the Secretary's Plan (Memorandum of Understanding with Norfolk Southern), and the definitive agreements. Why is this jurisdiction being extended?

ANSWER: Most complex agreements make choices of forum if possible. We need a capable forum to which we can resort if disputes arise concerning this extremely complex transaction. The Special Court's unique expertise regarding Conrail made it the most desirable forum.

SENATOR ANDREWS: Why shouldn't the ICC have jurisdiction over the merger once the sale is implemented? Wouldn't the ICC have jurisdiction over such matters if other railroads were involved?

ANSWER: Once this transaction is completed, the ICC will have jurisdiction over future matters pertaining to the Norfolk Southern system, including Conrail, and to the Guilford and Pittsburgh and Lake Erie systems on the same basis as its jurisdiction over rail matters generally. The ICC does not have jurisdiction over implementation of this transaction, including the sale of the stock to Norfolk Southern, the divestitures from Norfolk Southern to Guilford and the P&LE, and the coordination of Conrail's operations with the Southern Railroad and the Norfolk & Western. NERSA, in effect, has reserved this right to the Congress.

SENATOR ANDREWS: In section 103 of the proposed legislation, Special Court review continues to be the only review of the sale—including enforcement of terms and conditions. What standard of review will be applied? Will further review meet ICC standards?

ANSWER: The Special Court would apply the usual and normal standards of review for the types of cases brought. For example, if the government brought an action charging Norfolk Southern with breach of contract and sought injunctive relief, the Special Court would be expected to apply the traditional standards of contract law to determine whether a breach had occurred and to require that the normal tests be satisfied before injunctive relief would be afforded for any breach. ICC standards are irrelevant to actions that would come before the Special Court, which would have jurisdiction only over the limited matters set forth in section 121 of our proposed bill. Post sale, any matter concerning these carriers that falls within the ICC's jurisdiction would proceed before the ICC.

SENATOR ANDREWS: Doesn't the proposed legislation ask Congress to certify a priori that normal merger standards are being met?

ANSWER: No. Section 408(c) of the 3R Act (added by NERSA) specifically exempts the sale from ICC review. That represents a conclusion by Congress that normal merger standards do not apply to this sale. The Department's proposed bill merely perfects that exemption for this transaction, some of the facts of which could not have been anticipated in 1981. We think Congress was right in deciding in NERSA that the normal ICC merger standards are inappropriate for use in this sale.

IMPACT ON NORTH DAKOTA AGRICULTURAL SHIPPERS

SENATOR ANDREWS: Mr. Burnley, can you assure me and the wheat, barley, and potato farmers of North Dakota that service under this proposal will be equal or better than they now receive.

ANSWER: It is unlikely that agricultural shippers in North Dakota will be adversely affected by a Norfolk Southern-Conrail consolidation. A review of the state-to-state flow of agricultural products hauled by rail from the 1983 Carload Waybill Sample indicates that nearly one-half (48%) of the shipments that originate in North Dakota are either local to North Dakota or travel to an adjacent state. An additional 31% travels to other midwest states outside the Norfolk Southern-Conrail service area, 14% to other western states, and the remainder (7%) travels to states in the eastern and southern regions of the U.S. In addition, the opportunity for greater competition exists, post sale, for shipments via Guilford into the Northeast in direct competition with Conrail, something no railroad can do today.

MILWAUKEE - CONRAIL COMPARISON

SENATOR ANDREWS: The Soo Line has purchased 3,500 miles of track of the former Milwaukee Road for $550 million. The Chicago and North Western was willing to pay even more ($786 million). Conrail consists of 13,443 route miles of high quality track. Is the Milwaukee Road track and equipment in the same condition as Conrail?

ANSWER: These transactions are clearly not comparable. The Milwaukee acquisition is arranged as an asset sale, whereas Conrail would be a stock sale. In an asset sale, the buyer assumes the debts of the estate, and those debts effectively reduce the purchase price. Soo Line, therefore, bid a cash amount of $148 million and the Chicago and North Western offered $165.5 million. Again, each offer included other non-cash considerations.

The Milwaukee's track and equipment cannot be directly compared to Conrail. Conrail is four times larger and has substantially different traffic patterns. The Milwaukee, however, has substantially realigned its assets to serve as a major regional railroad, emphasizing gathering and distribution facilities and associated efficiencies, with less emphasis upon long line haul. Moreover, only $148 million of cash was paid for Milwaukee, the rest of the price represents debt assumption, exchange of asset values, etc. On the same basis of accounting, Norfolk Southern would be paying more than $2.7 billion for Conrail.

The figures used as the value of bids received for the Milwaukee Road ranged from $571 million bid by Soo to $787 million bid by CNW. It was held that these figures are much higher, proportionally, than what was being paid for Conrail.

Conrail is about 4 1/2 times the size of Milwaukee so the comparison as between $1.2 billion and $571 million appears on its face to be unfavorable. However, the Soo purchase was a purchase of assets comprising a whole range of consideration which added up to $571 million. Setting out the NS/Conrail transaction on a comparable computation basis puts the consideration for Conrail in the $2.8 billion range.

	$'s in Millions	
	SOO for MILW	NS for CR
1. Cash consideration	$148	$1,200
- to labor		375
2. Debt assumed by buyer (net)	420	1,302
3. Other consideration left with estate	3	-
Total	$571	$2,877

MILWAUKEE ROAD CASH BALANCE

SENATOR ANDREWS: Did the Milwaukee Road have substantial excess cash that was included in the purchase?

ANSWER: No. The Milwaukee reported a balance of $17.9 million in cash and equivalents on September 30, 1984. Because the Milwaukee has not yet reported financial information for ensuing periods, we cannot estimate current cash at the time of the Soo Line purchase. However, we believe the cash balance will be shown to be less than $17.9 million when reported.

CONRAIL'S NON-CASH ASSETS

SENATOR ANDREWS: If Conrail's Working Capital is subtracted, ($587 million) from $1.2 billion you have a price of $613 million, a little more than Soo paid for the Milwaukee road assets and less than the CNW offered. Is it conceivable that Conrail's non-cash assets are worth less than the Milwaukee's after billions of federal dollars have been invested in Conrail?

ANSWER: Soo line is paying only $148 million cash for Milwaukee, the rest of the $500 million represents debt assumption, etc. On a comparable accounting basis, Norfolk Southern would be shown to be paying in excess of $2.7 billion for Conrail.

MILWAUKEE BIDS

SENATOR ANDREWS: Do you have any explanation why CNW and Soo would be willing to pay so much for Milwaukee compared to the bidding for Conrail?

ANSWER: The actual amount bid for the Milwaukee Road, under the most optimistic calculations, was $298.4 million under the North Western offer, and $148 million in the Soo offer. The rest of the figures cited for both the North Western and the Soo line offers is comprised of Milwaukee Road debts the buyers would assume and the value of properties left with the Milwaukee Road Estate.

Putting aside the rather general contention that the CNW overbid, note that Conrail is about 4-1/2 times the size of the Milwaukee Road. Applying a multiple of 4-1/2 to the high bid for the Milwaukee Road yields a total of $1.342 billion for 100 percent of the Conrail stock. This is absolutely in line with the Norfolk Southern proposal, which offered us $1.2 billion for our 85 percent interest, and $1.575 for 100 percent of Conrail's common stock. Note also that applying the same 4-1/2 multiple to the Soo line's offer yields an offer of only $599.4 million for Conrail.

Of course, the value of railroads is not determined by their mileage but by other factors such as cash flow, traffic base, gateways and routings. But even should one concede the "mileage" comparison raised by those who use the Milwaukee bidding to question the value of the Conrail bids, note that you have three bids which, on a mileage for mileage comparison, exceed the value of the top bid for the Milwaukee Road. Note also that the second highest bid for the Milwaukee Road is far below the CNW bid.

N&W OWNERSHIP OF ERIE LACKAWANNA

SENATOR ANDREWS: The Norfolk and Western (N&W), one of the two railroads comprising Norfolk Southern controlled until 1982, I believe, the Erie Lackawanna Railroads, which served the Northeast. What was the record of the N&W's stewardship of Erie? During N&W control, what percent of Erie track was abandoned? How much was included in Conrail?

ANSWER: Dereco, Inc., a holding company controlled by N&W, acquired all of the outstanding stock of Erie Lackawanna Railway Company (EL) on April 1, 1968. Dereco's acquisition of EL was pursuant to a condition imposed by the Interstate Commerce Commission (ICC) upon its approval of the unification of N&W with New York, Chicago and St. Louis Railroad Company (Nickel Plate) and Wabash Railroad Company (Wabash) (*Norfolk & W. Ry. Co., and New York, C. & St. L.R. Co. Merger* (324 I.C.C. 1 (1964)).

In its decision in the N&W-Nickel Plate-Wabash proceeding, the ICC found "reasons to believe that approval of the present proposal, in all probability, would aid the Erie-Lackawanna and, if anything, improve rather than hinder its service to the public, particularly in the New York area" (324 I.C.C. at 26). However, in light of the weak financial condition of EL (324 I.C.C. at 22-25) and other rail merger activity proposed or anticipated in the Northeast, the ICC imposed a condition permitting EL, during the subsequent five years, to petition for inclusion in the N&W system (324 I.C.C. at 148).

EL sought inclusion in N&W after the ICC approved the merger which created Penn Central Transportation Company (Penn Central). The ICC recognized that EL's inclusion petition was a "response to various developments in the East, some of them growing out of the transactions we dealt with in the *C&O-B&O* case, the *Penn-Central* case, and others [cites omitted]" (330 I.C.C. at 785). In 1967, over N&W's strenuous objections, the ICC ordered inclusion of EL in the N&W system through creation of Dereco and acquisition by Dereco of stock in a new EL (*Norfolk & W. Ry. Co. and New York, C. & St. L.R. Co. Merger*, (330 I.C.C. 780 (1967); modified 331 I.C.C. 22 (1967)).

N&W paid for the new EL's stock by issuance of Dereco stock valued at $55 million, convertible in five years to N&W stock. At the time of inclusion, the new EL had more than $342 million in long-term debt. During Dereco's ownership, EL did not pay any dividends to Dereco. By 1970, EL was incurring losses of approximately $11 million per year, and during 1970 Dereco lent $2 million to EL.

The new EL was affected by the same economic and financial trends that led to the decline of the railroad system throughout the Northeast. Furthermore, in the spring of 1972, EL properties suffered severe damage as a result of Hurricane Agnes. On June 16, 1972, EL followed Penn Central and other Northeastern rail carriers into reorganization. On April 1, 1976, the majority of EL's rail property was transferred to Consolidated Rail Corporation (Conrail), pursuant to the Railroad Reorganization Act of 1973, and EL ceased operations.

Between 1968 and 1976--the period of Dereco ownership--EL sought and obtained ICC authority to abandon 101 miles of line, comprising less than four percent of the EL system. On March 31, 1976, immediately prior to conveyance to Conrail, EL owned approximately 2,600 miles of road of which close to 2,100 miles were conveyed to Conrail. (Approximately 200 miles initially conveyed to Conrail were subsequently purchased by the State of New Jersey.) Conrail has subsequently abandoned and physically removed about two-thirds of the Erie-Lackawanna's tracks.

ICC ABANDONMENT PROCEDURES

SENATOR ANDREWS: Five years after the "closing" of the sale of Conrail, will Norfolk Southern be permitted to abandon service and/or defer maintenance on any line as it sees fit, as long as it complies with ICC Abandonment Procedure?

ANSWER: After the end of the 5-year period of the protective covenants, the purchaser of Conrail must submit to the same laws that restrict the owners of any railroad in disposing of its rail assets. Subtitle IV of Title 49, United States Code, formerly known as the Interstate Commerce Act, prevents abandonment or discontinuance of rail operations without ICC authorization. Abandonment or discontinuance of rail service requires a finding by the ICC of public convenience and necessity. It is a very strict threshold, and practically speaking, no major railroad has liquidated in modern times. Even if a buyer harbored hopes of liquidating Conrail's assets at a profit, he would be ill-advised to speculate in this manner. Labor termination expenses are a significant factor to be considered. In fact, no major railroad has been liquidated outside the reorganization courts in this century, and the government has stepped into all major, recent bankruptcies in order to provide labor protection funds. The New York Dock labor protection proposed by Norfolk Southern guarantees wages for six years after an employee is adversely affected.

The primary thing that will prevent deferral of maintenance is a need to provide adequate service to keep traffic, and everyone should be comforted by the knowledge that the Norfolk Southern has a reputation as the best maintained railroad in the country.

SHIPPER PROTECTIONS

SENATOR ANDREWS: Are there any protections for Northeastern communities and shippers after the five year period?

ANSWER: There are limits of reasonableness with respect to how long we can require the purchaser to be bound by such covenants. We view our covenants as an extension of the criteria we developed for the sale. Specifically, in returning Conrail to the private sector, we want to ensure that post-sale Conrail is a financially viable entity and that post-sale Conrail continues to provide dependable rail freight service to the areas it serves today. Our covenants go to the heart of our criteria. Post-sale Conrail will be governed by the same rules as all other private railroads with respect to abandonments, etc. However, for a certain period in its transition to the private sector, Conrail's successor will also be governed by precise, enforceable covenants. These are designed to address public concerns about service and the Department's concerns that Conrail be a financially self-sustaining railroad, maintaining ample fiscal reserves while reinvesting in its business.

QUESTIONS SUBMITTED BY SENATOR CHILES

MINORITY BUSINESS RESOURCE CENTER

SENATOR CHILES: The Minority Business Resource Center appears to be the only office housed in the Secretary's office, which is partially operating on carryover funds. This is an important program but the justification material does not provide data on which to assess the appropriate staffing levels. What is the exact source of these prior year balances used to partially finance the office and what has been the level over the past 5 years?

ANSWER: The Minority Business Resource Center (MBRC) was established under Section 11 of P.L. 94-210, the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act). The funds appropriated under P.L. 94-210 were on a no-year basis and were earmarked for programmatic activities associated with the operation of the MBRC, as well as for salaries and expenses. While the MBRC was under the Federal Railroad Administration's budgetary authority through FY 1982 salaries and expenses were funded from their account. Beginning in FY 1983, the MBRC funds were used only for programmatic activities and travel.

The level of funding and carryover for the MBRC over the last five (5) years is as follows:

Fiscal Year	Appropriated Funds	Carryover Balance	Total Operating Funds
		(Dollars in Millions)	
1981	$ 6.8	$ 8.4	$ 15.2
1982	6.5	6.7	13.2
1983	2.6	3.7	6.3
1984	3.9	2.5	6.4
1985	4.0	1.8	5.8

It is estimated that approximately $1 million will be carried over to FY 1986.

SENATOR CHILES: Please provide appropriate workload statistics related to the requested staffing level.

ANSWER: The Office of Small and Disadvantaged Business Utilization is allocated a total of 16 positions. This number has not changed since FY 1983. Ten (10) positions are associated with the MBRC for FY 1983, FY 1984, and FY 1985. The ten (10) positions consist of nine (9) professionals and one (1) clerical.

The workload statistics for the MBRC field programs from October 1983 through February 1985 are as follows:

On-site visits made to recipients	2,784
MBEs accompanied to recipients	556
MBEs visited	1,414
Total procurement opportunities obtained, matched and disseminated	16,139
Bid/proposals submitted	3,243
Contract awards based on PMC involvement	766
Total dollars of contract awards	$90,860,040
Technical assistance requests received	749
Technical assistance requests fulfilled	532
Financial assistance requests received	527
Financial assistance requests fulfilled and submitted to funding sources	115

Number of financial requests funded	27
Surety bonding assistance requests received	534
Surety bonding assistance requests fulfilled and submitted to bonding source	124
Number of bonds granted	62
MBEs added to the vendor file	3,585

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

SENATOR CHILES: Recently, newspaper articles recounted an approved launch plan to orbit cremated bodies into space. Is this an accomplishment of the Office of Commercial Space Transportation?

ANSWER: On January 2, 1985, Space Services, Inc. requested a statement of official position as to whether the Secretary of Transportation would prevent the launch of cremated human remains ("cremains") pursuant to her authority under the Commercial Space Launch Act of 1984 (P.L. 98-575). The Act authorizes the Secretary to prevent the launch of a payload which otherwise requires no license or permit, if it jeopardizes the national interest.

As required by the Act, DOT worked with the Departments of State and Defense, as well as the National Aeronautics and Space Administration, to determine whether the launch of cremains would jeopardize national interests as defined in the statute. It was also determined that this action would have no measurable effect upon the space environment. Accordingly, SSI was notified that the Secretary would not act to prevent the launch of a payload of this type.

SENATOR CHILES: What progress has been made on other objectives of the office and when will plans be completed?

ANSWER: A major objective of the office is to implement the provisions of the Commercial Space Launch Act. In this regard, a policy statement was published February 25, 1985, which outlines the process for licensing commercial space launches. In addition, an Advanced Notice of Proposed Rulemaking will be published shortly which invites public comment on various issues concerning 3rd party liability insurance. Also, OCST is currently developing documents which will provide further guidance regarding the licensing process and should be published for public comment by the end of May or early June. In all these efforts, it is our intent to streamline the existing regulatory structure to assure that the public safety is being preserved while creating an environment conducive to growth and innovation.

In addition to our ongoing work in the regulatory area, we have also been working with other government agencies on a variety of policy issues of concern to the commercial ELV industry, such as Federal launch facility procedures and pricing, unfair pricing practices by foreign competitors, and the price of the Shuttle for commercial and foreign competitors. We have also established an industry advisory committee to institutionalize the flow of information between the Department and the private sector launch services industry, its customers, and other interests in space commercialization.

UMTA ACCOUNTING

SENATOR CHILES: I am concerned that there are serious deficiencies in the UMTA accounting system. For some time my office has been seeking the FY 1984 city-by-city obligations under the mass transit program. As of this date, several months after the close of the fiscal year, these numbers are unavailable. Has the Office of the Secretary reviewed the UMTA accounting systems in connection with the year-end report required under the Federal Managers' Financial Integrity Act?

ANSWER: Yes, the UMTA accounting system was reviewed in both FY 1983 and FY 1984 in connection with the Federal Managers' Financial Integrity Act.

SENATOR CHILES: What has the Secretary certified as to the status of UMTA accounting systems?

ANSWER: The Secretary certified in both FY 1983 and FY 1984 that the UMTA accounting system was not in general conformance with the Comptroller General's principles, standards, and related requirements.

SENATOR CHILES: What steps are underway to insure the more timely and accurate provision of data by UMTA?

ANSWER: UMTA is implementing a new financial management system to correct the existing accounting system's nonconformance. This system will have the capability to record, classify, assemble and report on all financial and operating transactions to which UMTA is a party.

PROCUREMENT

SENATOR CHILES: We have in the past few years been concerned about the timeliness of the procurement process in the Department, particularly as it has affected Coast Guard procurement actions vital to drug interdiction efforts. I understand that since May 1984, the Department has required all procurements over $100,000 to be submitted to the Department for review prior to solicitation. This process reportedly was initiated because of "serious problems" in the Department's procurement process.

While a high level review process may help to resolve such problems, it also has the potential for causing serious delays in completing procurement actions.

Has this review process corrected the "problems" uncovered in earlier studies? If not, what is the long term purpose of this review procedure?

Do you have any plans to redelegate procurement authority back to the operating levels?

ANSWER: The review process has affected procurement management improvement by increasing attention at all management levels in areas such as:

- o documentation of expenditures,
- o use of cost reimbursement contracts,
- o quality of statements of work, and
- o identification of purchases for 8(a) set-aside or small business participation.

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The Department has instituted Contract Management Reviews (CRM's), the recommendations and findings of which are expected to result in substantial improvements. Additionally, we are currently in the process of establishing procedures which will result in earlier reviews and significantly reduce the time needed for individual procurement reviews.

The results of the procurement review process will be monitored closely and the process modified or terminated when the situation warrants.

COAST GUARD USER FEES

SENATOR CHILES: The President's budget assumes enactment of legislation to impose a variety of user fees related to Coast Guard services, resulting in $236 million in revenues in FY 1986. This proposal was made in the past and found almost no Congressional support. Why do you believe that Congress will reverse itself this time?

ANSWER: We believe that our proposal for user fees on selected Coast Guard services will be more favorably considered this year for the following reasons: In the first place we have a House sponsor for the proposed legislation, Mr. Conte, who introduced it yesterday (H.R. 1936), and we hope to have a sponsor in the Senate. Secondly, we believe we have learned from the past and have submitted an improved proposal that will be more acceptable. Finally, the Nation's financial situation demands that proposals, such as user fees, which alleviate the burdens of an unacceptably large Federal deficit, be given a fair hearing.

NATIONAL AND DULLES AIRPORTS

SENATOR CHILES: The Department has stated its support for a proposal to lease and ultimately transfer ownership of Dulles and National Airports to an interstate compact agency. Considering the many years of Federal investment in these airports and the fact that they serve the Nation's Capital, does the Department envision any roles for itself in airport management during the 35-year lease period which would protect the Federal interest in the airports?

ANSWER: Basically we do not believe it necessary to participate in the management of the airports to protect the federal interests. Our goal is to make the authority as much like any other as possible. We have therefore included in the transfer legislation provisions to protect federal interest. For example, we require the authority to operate both airports and to limit its activities to airport operations. We would only become involved in the airports' operations if the authority violated lease conditions, or in the event we

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identify property leased to the airports not necessary for airport purposes.

But the lease itself is the principal property leased to protecting the federal interest. If the authority does not carry out its responsibilities acceptably, the airports can be recovered by appropriate legislation up until the lease has expired.

SENATOR CHILES: Presumably the local governments concerned are willing to take over responsibility because the airports are a viable economic investment. We need to make sure that the Federal Government is not setting too low a price for this valuable property.

How was $70 million determined? What would the impact be if this were raised by 20% or 50%?

ANSWER: We anticipate that the remaining balance on the airports' hypothetical debt will be about $46 million at the end of this fiscal year. Our proposal would also require the new airport authority to pay, in a single sum, the present value of the airports employees' share of the unfunded pension liability. The hypothetical debt represent the federal investment in the airports through past appropriations that has not been repaid to the Treasury through fees and charges.

The airports are not an investment for the authority that will operate them. Their revenues, which must be cost-based, may only be spent on the airports. And the authority will be required to operate its properties as airports. Indeed, as you and others have suggested, we would require that any land not used for airport purposes revert to the United States, so that the authority could not sell it. Given these restrictions, we proposed to transfer the airports, not sell them. Increasing the price would be inconsistent with our theory of transfer, limit the ability of the new authority to issue revenue bonds, and require airport users through their fees to pay again, for an airport they have already paid for. I doubt the new authority would accept transfer at a higher price, and I am quite sure the air carriers would be uniformly opposed.

SENATOR CHILES: The Committee has been informed that the landing fees at National are among the lowest in the nation. Nevertheless, the two airports make a profit. Why can't fees be adjusted to an appropriate level and this additional revenue used to fund needed improvements?

ANSWER: Under present law, all revenues are paid into the General Fund of the Treasury, and the FAA may not use them without appropriation. But the Metropolitan Washington Airports do not make a profit. Fees and charges at Dulles and National are cost-based. They are determined much like any other airport's - to provide enough revenue to pay operating expenses and finance costs - and are increased after capital improvements are made to recover capital costs. Most airports base such fees in part on actual debt. The

Metropolitan Washington Airports base them on a hypothetical debt designed to assure full reimbursement to the Treasury of appropriated funds. Fees are low at the airports because the airports are efficiently run and the level of capital investment has been low.

SENATOR CHILES: Governor Holton has informed me that National and Dulles cannot receive AIP funds. What is the history of this situation? Should we change it? If not, why not?

ANSWER: The laws authorizing the AIP and predecessor airport grant programs have excluded federally-owned airports from eligibility. There would be obvious questions of propriety and conflict of interest if FAA were in a position of awarding grant funds to its own airports, particularly since requests for AIP grants always exceed program availability.

Under the Department's proposal to transfer the two Washington airports to a regional airports authority, both National and Dulles would become eligible to receive AIP grants. Pending resolution of this initiative, we would not propose pursuing changes to the current AIP statute.

QUESTION SUBMITTED BY SENATOR BYRD

ESSENTIAL AIR SERVICE SUBSIDIES

SENATOR BYRD: The FY 1986 Budget proposes the elimination of the essential air services subsidy program. The Airline Deregulation Act provided for this subsidy for a ten year period -- through 1988 -- to guarantee air service to small communities. As a matter of fact, I have written to the Secretary of Transportation to express my grave concerns over the elimination of this subsidy. I quote in part from her response:

> "...The airline industry, which has matured and adjusted to deregulation and is earning the highest profits since 1978, should now be prepared to meet the transportation needs of most of these communities without our intervention."

This may be true in some states; however, I can tell you that this is not true in West Virginia. Since deregulation, most major airline carriers have pulled out of West Virginia, and we now have limited commuter airline service in my state. The cost of traveling to West Virginia in most instances is more than traveling to the West Coast -- you can travel from Washington, D.C. to California at a cost of $99. It costs half as much again to travel to Beckley, West Virginia, and we are talking of a distance of less than 300 miles.

Beckley is one of those communities that receives the essential air service subsidy -- there are four other communities in West Virginia that have benefited from that program -- Bluefield, Clarksburg, Morgantown, and Elkins.

Let me outline a scenario of what is happening in rural states like West Virginia.

1. With airline deregulation, the major carriers pulled out of

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most of the airports in West Virginia, with the exception of Charleston and Huntington.
2. Because of the Essential Air Service Program, the transition to commuter service was made without wholesale loss of air service to small and rural communities.
3. With the advent of commuter service and a reduced number of flights, passenger counts fell.
4. In spite of the terrain and adverse weather conditions making flying hazardous in my state, FAA made several attempts to close various flight service stations and air traffic control towers.
5. In spite of the fact that people flying into West Virginia pay almost half as much again in fares as those going to California, DOT is now proposing that the essential flight service subsidy be eliminated.
6. This will further jeopardize air service to West Virginia. While I am pleased to note that the airline industry has made its greatest profit since 1978, anyone who thinks that major air carriers are going to provide service to rural areas out of the goodness of their hearts is just simply not looking at the record. Would you provide a list of all commercial carriers, types of aircraft, and flight schedules for all West Virginia airports prior to 1978: Would you also supply the same information for 1985?

ANSWER: Table 1, attached, shows the carriers, types of aircraft, and weekly aircraft departures for the nine West Virginia points served in the months of April 1977 and April 1985.

Table 2, attached, shows the percentage changes in weekly departures and seats at the nine West Virginia points between April 1977 and April 1985.

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Table 1

AIR CARRIERS SERVING WEST VIRGINIA POINTS, AIRCRAFT USED, AND WEEKLY DEPARTURES
April 1977 and April 1985

Point	Carriers*		Aircraft**		Weekly Departures	
	1977	1985	1977	1985	1977	1985
Ashland/Huntington	AL,PI	AL,DL,PI	D93,YS1,73S	D93,EMB,F28, SH3,SWM,73S	95	84
Beckley	KC,PI	SX	BET,YS1	BE9	57	35
Charleston	AA,AL,PI,UA	AL,DL,PI, SX,7T	B11,BE9,YS1, 727,737,73S	BE9,D93,F28 EMB,PAG,SH3 73S,72S	192	198
Clarksburg	AL*	AL,CJ	BE9,CV5	BEC,DHT	107	68
Elkins	AL*	CJ	BE9	BEC	27	18
Greenbrier	PI	PI	YS1,73S	DH7	42	21
Morgantown	AL*	AL,CJ	BE9,CV5	BEC,DHT	99	92
Parkersburg	AL,PI	AL	B11,D93,YS1	SH3	49	56
Princeton/Bluefield	KC,PI	SX	BET,YS1	BE9	64	30

*Carrier Decoding

AA = American
AL = Allegheny (now USAir)
AL* = Allegheny Commuter
CJ = Colgan
DL = Delta
KC = AeroMech
PI = Piedmont
SX = Christman
UA = United
7T = Trans Midwest

**Aircraft Decoding

BEC = Beechcraft
BET = Twin Beech
BE9 = Beech 99
B11 = BAC 1-11
CV5 = Convair 580
DHT = DeHavilland DHC-6
DH7 = DeHavilland DHC-7
D93 = Douglas DC-9-30
EMB = Bandeirante
F28 = Fokker F-28
PAG = Piper
SH3 = Short Bros. 330
SWM = Swearingen Metro
YS1 = YS-11
73S = B-737-200
737 = B-737-100
727 = B-727-100

Source: Official Airline Guide; April 1977 and April 1985.

WEEKLY AIRCRAFT DEPARTURES AND SEATS AT WEST VIRGINIA POINTS

April 1985 vs. April 1977

ORIGINATION CITY	-NUMBER OF DEPARTURES PER WEEK-			-NUMBER OF SEATS PER WEEK-			PERCENT CHANGE	
	04/01/77	04/01/85	INCREASE OR DECREASE(-)	04/01/77	04/01/85	INCREASE OR DECREASE(-)	DEPARTURE	SEATS
WEST VIRGINIA								
Ashland, KY/ Huntington(Hts)	95	84	-11	7,532	4,768	-2,764	-11.5	-36.6
Beckley, W. VA(BKW)	57	35	-22	2,360	490	-1,870	-38.5	-79.2
Charleston, W. VA(CRW)	192	198	6	14,252	15,030	778	3.1	5.4
Clarksburg, W. VA(CKB)	107	68	-39	2,095	1,275	-820	-36.4	-39.1
Elkins, W. VA(EKN)	27	19	-9	405	270	-135	-33.3	-33.3
Greenbrier, W. VA(LWB)	42	21	-21	2,940	1,050	-1,890	-50.0	-64.2
Morgantown, W. VA(MGW)	99	92	-7	1,975	1,670	-305	-7.0	-15.4
Parkersburg, W. VA(PKB)	49	56	7	3,542	1,680	-1,862	14.2	-52.5
Princeton, W. VA(BLF)	64	30	-34	2,766	420	-2,346	-53.1	-84.8
STATE TOTAL	732	602	-130	37,867	26,653	-11,214	-17.7	-29.6

SUBCOMMITTEE RECESS

Senator ABDNOR. Thank you. The subcommittee will now stand in recess until 10 a.m., Thursday, April 18.

[Whereupon, at 12:10 p.m., Thursday, April 4, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 18.]

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

THURSDAY, APRIL 18, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:09 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, Abdnor, Kasten, D'Amato, Chiles, and Lautenberg.

DEPARTMENT OF TRANSPORTATION

URBAN MASS TRANSPORTATION ADMINISTRATION

STATEMENT OF HON. RALPH L. STANLEY, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION

ACCOMPANIED BY:

- **ALFRED A. DELLIBOVI, DEPUTY ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION**
- **JOSEPH A. LA SALA, CHIEF COUNSEL, URBAN MASS TRANSPORTATION ADMINISTRATION**
- **KENNETH W. BUTLER, ASSOCIATE ADMINISTRATOR FOR BUDGET AND POLICY, URBAN MASS TRANSPORTATION ADMINISTRATION**
- **RAYMOND J. SANDER, EXECUTIVE DIRECTOR, URBAN MASS TRANSPORTATION ADMINISTRATION**
- **ROBERT H. McMANUS, ASSOCIATE ADMINISTRATOR FOR GRANTS MANAGEMENT, URBAN MASS TRANSPORTATION ADMINISTRATION**
- **PETER BENJAMIN, ASSOCIATE ADMINISTRATOR FOR TECHNICAL ASSISTANCE, URBAN MASS TRANSPORTATION ADMINISTRATION**

OPENING REMARKS

Senator D'AMATO. The Subcommittee on Transportation will convene.

Senator Andrews is on his way, and so in the interest of giving those who have been here today an opportunity we will begin. Mr. Stanley, we are delighted to see you and your staff and the UMTA people. Although we may disagree with respect to certain aspects of the budget as it affects Amtrak, let me suggest to you that rather than making the cuts as severe as those that have been proposed, and also by the Budget Committee, and the proposed compromise, which will be about a 25-

percent cut—and I am going to put my statement in the record as if read in its entirety—it would seem to me that a hold-the-line approach, or cuts that would be less drastic, would be in order, since there is a deficit problem. We recognize that we have to do our part in reducing the budget deficit.

It also seems to me that simply to say that Amtrak should be closed in total, just shut it down, is an oversimplification. This Nation cannot afford not to have a national transportation system or rail transportation system. At the same time, we in the Congress have got to recognize that where there are lines that have no justification other than political muscle, porkbarrel philosophy that has kept certain operations open that should not be open. We have a duty also then to be able to give up the so-called sacred cows, those areas that exist as a result of politics, and not as a result of true, identifiable need. So I make that statement in the overall. I understand that Amtrak does not come under your jurisdiction, but the Nation's transportation in general is something that we have got to be concerned about. I would think that those are the kinds of compromises that we have got to try to make.

PREPARED STATEMENT

I am going to submit my statement for the record as if read in its entirety, and Mr. Stanley, in the interests of time, while we are waiting on Chairman Andrews' appearance, why do you not start to make your presentation.

[The statement follows:]

STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I appreciate this opportunity to offer my remarks concerning the proposed Fiscal Year 1986 budget for UMTA. Without a doubt, I have serious concerns regarding this proposal and look forward to discussing them with the subcommittee.

As you know, under the Administration's proposed FY 86 budget of $24.7 billion the Department of Transportation would experience an overall cut of about 13% ($3.8 billion) from last year. Such a cut is, per se, not unreasonable. However, nearly 70% ($2.75 billion) of those cuts would be derived from devastating and thoughtlessly conceived reductions in Federal aid to public transit. The New York City Metropolitan Transportation Authority (NYC MTA) would lose $108 million in operating assistance and $285 million in vital capital aid.

Operating assistance, which is the lifeblood of the nation's smallest transit systems, would be abruptly terminated without any transition period to enable states and localities to plan for the future. Funding available for transit capital needs would be distributed strictly on a formula basis. Its source of funds would be limited to the $1.1 billion per year which OMB conservatively estimates to be generated by the one penny of gasoline tax set aside for mass transit. CBO says that more than $1.6 billion is available from this fund. No general tax revenues would be used for transit.

When Secretary Dole testified before this subcommittee on February 21, 1985, I told her that I would fight these unreasonable and crippling cuts. Transit must not be made the scapegoat for other programs that have failed to hold the line in fighting the deficit. Indeed, if other federally-aided programs had taken the 20%-10%-5%- type of cuts that transit operating assistance took in the Surface Transportation Assistance Act (STAA) of 1982, we wouldn't have such a severe deficit problem.

The NYC MTA would lose $108 million in operating assistance. The NYC Transit Authority normally receives $80 million of that sum, and without it will need to raise fares at least a nickle. The commuter rail operations which receive about $24.4 million will need to raise fares by 5% to 6%. Federal aid now accounts for only about 3% of the NYC MTA's operating budget, while in small urban and rural areas that percentage can go much higher.

Since 1980, the use of Federal aid for transit operating assistance in New York State has been reduced by 30%. Meanwhile statewide operating expenditures have grown faster than the Consumer Price Index (CPI) despite relatively constant service levels. For example, costs for the MTA have grown about 50% between 1980 and 1984, with the upstate transit authorities averaging 40% for the same period. The CPI increased 30% for the comparable period. The point is that New York has been paying its fair share while the amount of available Federal operating assistance has been frozen.

The proposed sweeping changes in the transit program will affect the ability of virtually all the nation's public transit systems to offer adequate service. The American Public Transit Association (APTA) has surveyed 152 transit systems which carry 75% of the nation's transit riders, as well as 63 transit-related businesses which employ over 40,000 workers, in order to determine the impact of the budget cuts. APTA found that 30 systems might be forced out of business, 88% will have to cut service dramatically, and more than eight in ten will be forced to raise fares so high as to discourage ridership. In addition, the budget cuts would wipe out an estimated 203,000 jobs and $8 billion in private business revenues.

In addition to proposing no new discretionary funding for fixed guideway projects, I understand that the proposed budget would use the available funding from 1984 and 1985 to complete those fixed guideway projects "... which are now under construction or which can be fully financed within these available funds." When Secretary Dole testified before this Subcommittee on February 21, she stated that any plan to reprogram earmarked funds would be submitted to us prior to Administrator Stanley's appearance today. Thus far, I have not seen any such reprogramming plan and I am curious as to which earmarkings UMTA is planning to honor and which ones are being reprogrammed to other projects.

I understand that UMTA intends to eliminate funds earmarked for Los Angeles, Miami, Houston, St. Louis, San Diego, Buffalo and Jacksonville. FY 85 new starts funding is to be used to complete existing new start commitments (i.e., Portland and Santa Clara), and rail modernization or highly rated, one-time new starts. A bus tunnel in Seattle would be fully funded.

This Subcommittee earmarked $2.7 million for the Buffalo Light Rapid Rail system in the FY 85 Appropriations Act. I wrote to the Secretary on March 8 regarding the issue of a reprogramming. In that letter I indicated that assuming this Subcommittee accepts the Budget's position on any of the reprogramming, which I seriously doubt, the funds for Buffalo fit the criteria set forth in the Budget. The $2.7 million is designed to be the final payment to the Niagara Frontier Transportation Authority (NFTA) to complete the 6.4 mile operable segment which will start service next month. This project is therefore under construction and could be fully financed within the $2.7 million made available. In fact, UMTA, understanding this, issued a letter of no prejudice allowing the NFTA to spend a large portion of these funds so as not to delay the opening of the system. The Buffalo project is currently expected to come in one time and relatively on budget. It seems to me that this project certainly fits the budget proposal's criteria for funding.

I am concerned that this budget is forcing transit to bear the brunt of belt-tightening measures in a manner disproportionate to other programs that have either been frozen or increased. The Federal Government has made a tremendous investment in public transit. Without adequate funds, sorely needed maintenance and rehabilitation work will be further deferred and there will be an even more rapid decline in service and safety.

The STAA provided a formula for cuts in operating assistance. Transit agreed to "bite the bullet" by agreeing to cuts of 20 percent, 10 percent, and 5 percent. In FY 1984,

$875 million was available for operating assistance - an overall cut of 16 percent from the 1982 level. Despite the cooperation of transit in absorbing this cut, attempts were made again last year to slash the program by 38% to $545.5 million with a total phase-out by 1989. Congress rejected that proposal and funded the program at $875 million for FY 1985.

APTA's survey reveals that transit fares would have to rise substantially in 82% of the transit systems. Nearly one-quarter, mostly small systems, predicted increases of 90% or more. Half predicted increases of 50% or more. These increases would occur on top of a national average base fare of 60 cents. Although Federal operating assistance comprises a relatively small share of the New York City Metropolitan Transportation Authority's total budget, it is essential to many small transit systems which may be forced to shut down without it.

Capital assistance is so severely limited under the FY 1986 budget that APTA's survey revealed that over 70% of the nation's transit systems would be forced to forego the purchase of new buses. This is made even more significant by the fact that over 30% of the nation's bus fleet is past its useful economic life of 12 years. The New York MTA would receive a devasting cut of about $285 million in capital assistance. Such a reduction will mean the further deferral of vital repair and rehabilitation work on the 81 year-old system. This work is necessary not only to improve service, but for safety.

I am shocked at the statement in the budget that "funding of local transportation is not an appropriate role for the Federal Government since benefits accrue locally." Passage of the STAA, with its creation of the Mass Transit Account in the Highway Trust Fund, was a clear reaffirmation of Congress' commitment to a Federal role in the nation's transit program. Furthermore, there are many Federally-assisted projects of direct benefit only to one part of the country or to one particular city or area. The cornerstone of our Federal system of government is that we address and promote the varying needs and strengths of the different states for the greater good of the nation. We must not become insensitive to the needs of sister states because eventually we will harm the union itself.

Finally, I am concerned that this budget would not provide any new funds for UMTA's Research, Training and Human Resources program. Rather, $24.6 million in unobligated balances from the FY 1984 appropriation would be deferred to fund the program in FY 1986. During FY 1985, $51 million is available for use in this program which includes vital funding for safety grants used to fight transit crime. $15 million dollars was earmarked for transit safety and security in last year's appropriations bill. At last year's UMTA budget hearing, I asked UMTA Administrator Ralph Stanley if he would place a greater emphasis on safety and security and he agreed to do so. How will this be possible without any new funds? During the State of the Union Address, President Reagan said:

"Of all the changes in the past 20 years, none has more threatened our sense of national well-being than the explosion of violent crime. One does not have to have been attacked to be a victim. The woman who must run to her car after shopping at night is a victim. The couple draping their door with locks and chains are victims, as is the tired, decent cleaning woman who can't ride a subway home without being afraid."

It is my belief that the Federal commitment to transit will rise above this budget's proposed 70% reduction in the program. The Administration has recognized the problem of crime on our subway systems, it must now be responsive to its duty to help preserve the Federal investment made in those systems. In addition, Congress must act to ensure that the other parts of the transit program remain intact. It is by creating safer, more reliable and efficient transit systems that we are able to increase ridership and to provide needed revenues.

The Budget Committee has recently voted to slash mass transit funding by 25% and the recent Senate - White House compromise on transit funding would also cut transit by nearly 25%. Although this is better than the devastating 70% cut envisioned by the Administration's budget proposal, it is still far too high and will damage the integrity of the program. I have introduced a bill, S. 352, that would permit an additional $900 million to be spent on transit grants over a three year period. These funds are now available from revenues accruing from the one penny of gas tax dedicated to mass transit. Public mass transit is not receiving the full benefit of that tax because of artificially low authorization ceilings in the program. Thus, I think it is unfair to suggest that transit take a 25% cut. What really needs to be done to fulfill our promise to transit is to raise the authorization ceiling on the program to match the actual revenues collected. If, in the effort to reduce the deficit, we must control spending on transit, as well as on other domestic programs, then I believe the best approach would be simply to freeze transit funding at current levels.

Again, I thank you for affording me this opportunity to offer my remarks, and I thank our witnesses for agreeing to share their views with us today.

STATEMENT OF MR. STANLEY

Mr. STANLEY. Senator, thank you. With your permission, I would like to submit my prepared statement for the record, but I would like to mention an item that is not addressed in that statement. As you know, the White House and the Senate recently reached a compromise on the fiscal year 1986 Federal budget. The agreement includes the following actions on the budget as it pertains to UMTA. Operating assistance is to be phased out over 5 years at 20 percent each year. Capital funding under the gas tax and the general funded formula grants is to be reduced from the fiscal year 1985 appropriated level of $2.68 billion to $2.25 billion in fiscal year 1986 and to $1.7 billion by fiscal year 1988. Substitute mass transit projects are to be funded from the Highway Trust Fund under the Federal Highway Administration's obligation limit on Federal Aid Highways. For WMATA, the appropriations under Stark-Harris are to be reduced from approximately $250 million per year to $186.5 million in fiscal year 1986. This would represent a 25-percent reduction. I do want to point out, though, that this compromise, as you are well aware, is acceptable to the administration only as part of the total budget package. If significant changes are made elsewhere in the package, the transit portion would be jeopardized.

INTRODUCTION OF ASSOCIATES

I also want to introduce staff members from UMTA who are at the witness table with me. First, from the right, Robert McManus, the Associate Administrator for Grants Management; Ken Butler, Associate Administrator for Budget and Policy; Al DelliBovi, Deputy Administrator; Joe LaSala, the Chief Counsel; Ray Sander, the Executive Director; and Peter Benjamin, Associate Administrator for Technical Assistance.

I would be glad to answer any questions.

PREPARED STATEMENT

Senator ANDREWS. We have your complete statement, Mr. Stanley. It will be inserted in the record, and we will proceed to the questions.

[The statement follows:]

STATEMENT OF RALPH L. STANLEY

Mr. Chairman and Distinguished Members of the Subcommittee, I appreciate this opportunity to appear before you today to discuss our Fiscal Year 1986 Budget Proposal.

This budget is significant in its impact on the Federal role of public transportation in America, and proposes bold action necessary to reduce the cost of government to the American people, while continuing a firm committment in support of a safe and efficient mass transportation system. At a time when we face the crucial problem of reducing the Federal deficit, it is necessary to reassess the Federal Government's role in mass transit. We are proposing long term, fundamental changes, in order that the Federal Government be able to focus its limited resources on areas that are national in nature, and return responsibility for local matters back to State and local governments where they properly belong. In addition, by reducing governmental restrictions on private enterprise, private sector involvement in mass transit will increase, moving the Nation further in the direction of better services at lower cost for the transit consumer.

Mr. Chairman, in my statement I will summarize UMTA's contributions to public mass transit in America, detail UMTA's budget request for FY 1986, and discuss the policies we feel are necessary to accomplish our objective of significantly restructuring the funding of mass transit in this country.

Public Program Accomplishments

During its twenty-year history, UMTA has made a significant impact on mass transit in America. Since 1965, UMTA has made available a total of $43 billion in grants that have allowed transit systems to renew their facilities and equipment, to extend service and to keep fares low. Transit properties have provided 56,574 buses with UMTA funds, enough to renew the entire national bus fleet as well as increase it slightly. UMTA has funded the purchase of over 6,300 rail cars and 127 commuter rail diesel locomotives. This amounts to about one-half of the Nation's 10,800 rail transit cars, its 4,400 commuter rail cars and its 300 rail locomotives. UMTA funds have supported 290 route miles of new rail transit systems including BART in San Francisco, Washinton METRO, Atlanta MARTA, Baltimore, Buffalo, Miami, Portland, Sacramento and San Jose. UMTA funds have completed 65 miles of rail transit extensions in Boston, Chicago, Cleveland, New York and Philadelphia and 23 miles of busway in Los Angeles and Pittsburgh. In addition, UMTA has provided billions of dollars to modernize the existing rail systems with, among other things, new track, signals, stations, etc.

The Federal Government has, therefore, laid a solid foundation for mass transit over the last 20 years, and State and local governments should be in a position to manage greatly improved systems. We will still assist in providing limited capital assistance to maintain the transit infrastructure, and we will also provide technical assistance and research to improve the safety, management, operation, and efficiency of transit systems.

While we are not downplaying the importance of mass transit to the country, we feel that the time has come for shifting the primary responsibility for financing mass transit to the State and local governments. This is where the services are received and where the responsibility belongs.

Purpose of the Program

Much has changed in the twenty years since UMTA was established. The Urban Mass Transportation Act of 1964 originally gave responsibility to UMTA to "assist in the development of improved mass transportation facilities, equipment, techniques, and methods" and "to encourage the planning and establishment of area-wide urban mass transportation systems." As evidenced by the accomplishments I have mentioned, I feel we have essentially accomplished the purposes of the UMTA Act, and because times have changed since that Act was originally passed, there should be a thorough reexamination of the major transit programs such as operating assistance, which when first enacted was seen by many as "emergency" legislation and experimental in nature. It was originally viewed as a temporary solution to a temporary problem. In the debates on Federal operating subsidies, Mayor Richard Dilworth of Philadelphia described operating subsidies "as an interim measure until longer ranged solutions can be evolved." Senator Harrison Williams, one of the strongest advocates of operating assistance, thought operating subsidies would be used to "pay for existing inefficiency and poor service" and described operating subsidies as a "blood transfusion . . . needed before curative surgery can be performed." The interim transfusion has turned into a debilitating and costly addiction.

It is now time that Federal subsidies for local operating assistance, in particular, be terminated. Federal operating subsidies have distorted service decisions and substituted for increases in local fare box revenues, allowing real user costs to decline, while State and local taxpayer contributions almost tripled--in part to match Federal dollars. From 1977 to 1983, State and local taxpayer assistance increased 195 percent, while passenger revenue increased only 50 percent. Meanwhile, over these years inflation was about 55 percent and operating costs increased 90 percent. According to studies that examine the impact of Federal assistance to transit, of the total Federal operating assistance provided of about $8.0 billion, approximately $2.0 billion has been used for wage increases beyond the cost-of-living, $1.5 billion has been absorbed by lower productivity, $2.0 billion has been used to keep fares artificially low, and only $1.0 billion has been used to provide extra services.

Local operating deficits--often dealt with by using Federal operating assistance--are a result of local decisions about how much fare to charge, what wages to pay, and what services to provide. The Federal taxpayer should not have to pay for overly generous local decisions leading to operating deficits. For example, the decision making body--the locality--should pay for these decisions.

In addition, Federal operating subsidies have kept fares artificially low. From 1971 to 1980, the per mile cost of operating a car--the primary form of transit--increased 80 percent, while transit fares increased by only 29 percent. In constant dollars, passenger fares actually declined by 30 percent from 1971 to 1980.

Federal operating subsidies have also been associated with increased costs. From 1975 to 1983, operating expenses per vehicle mile increased at a rate greater than growth of inflation.

In many cases, Federal operating subsidies subsidize the middle-income and well-to-do, not the transit dependent who are normally the elderly and low to moderate income groups. The cost structure of providing transit service combined with prevailing fare structures means that less than 25 percent of any benefits of transit subsidy flow to low income users.

Need for Transition

Although some might take the view that the FY 1986 budget represents a dramatic change in the Federal commitment to transit, this budget request is consistent with our policy of the past four years. Since coming into office, this Administration has consistently advocated a phaseout of Federal operating subsidies.

Cities have been aware of our efforts to eliminate Federal operating assistance since 1981 and have already made a number of adjustments in fares, services, and State and local funding to cope with reduced Federal assistance.

For example, from 1980 to 1983, the percentage of operating expenses covered by Federal assistance has declined from 16.8 percent to 10.7 percent, while State and local coverage increased from 40.1 percent to 44.3 percent.

A number of areas including Dallas, Weschester County, and San Diego, have increased their reliance on the private sector through service contracting. Savings range between 30 and 50 percent.

The proposed budget cuts at first glance may appear drastic, but about $1 billion exists in unused formula funds, two thirds of it in urbanized areas under a million. Over $400 million of the $1.2 billion is eligible to be made for operating assistance that can be carried over into FY 1986 to provide a funding cushion for many areas.

Finally, a pipeline of over $8 billion in unliquidated capital grant obligations exists. These balances represent a backlog of capital projects that will be underway for several years and will help cushion the funding reductions proposed in this budget. This cushion will permit an orderly transition for the shift from Federal responsibility to State and local responsibility.

Over-reaction by Special Interest Groups

Some special interest groups have predicted that dire consequences will result if our budget is approved. For example, the American Public

Transportation Association (APTA) has already solicited reactions from its members to our budget request for FY 1986. APTA's approach, I believe, encouraged the submission of exaggerated claims which were then assembled to present a distorted picture of what could happen. The massive service reductions or shutdown situations that APTA refers to cannot be blamed on the loss of Federal operating assistance that averages 10 percent of operating costs. Even those areas with Federal aid covering as much as 40 percent of their costs should be able to adjust through a combination of fare modification, service pruning, productivity increases, and increased State and local support. This expectation was confirmed by transit managers themselves in a more objective, academically sponsored survey.

APTA overstates the importance of mass transit to the country as a whole. For example, studies have shown that mass transit services, as actually operated and used, make no appreciable contribution to the improvement of air quality, reduction in congestion, or conservation of energy.

In addition, the APTA study overstates mass transit's alleged benefit to low income, transit dependents. The benefits that do trickle down to low income users go to a very small proportion of that population--only 1 out of 7. Mass transit subsidies, in the main, benefit those with middle and upper income.

Due to the nature of the response by UMTA grantees to the APTA survey, I had my staff conduct an indepth analysis of the responses by directly contacting the grantees. I will make available, for the record, a copy of our report which documents the real impact of the Administration's budget initiatives.

Potential Private Sector Role in Achieving Cost Savings

I believe that, in addition to shifting the responsibility for funding mass transit to the State and local governments, it is also important that we increase the use of private operators in transit to offer the opportunity of saving money and improving transit service.

A recent study by Roger Teal of the University of California's Institute of Transportation Studies found cost savings ranging from 25 to 50 percent when transit services are contracted with private providers. The services included fixed route, demand-responsive, elderly and handicapped, and commuter in various communities across the country. Some examples:

- El Cajon, California used competitive bidding to select the operator of that community's entire public transportation service. When the bids were opened, El Cajon discovered that it would have to pay the regional transit agency more than 2 1/2 times as much per vehicle mile as it is charged by the taxi company which actually provides the community's service.

- Phoenix, Arizona estimates that it has saved $700,000 annually by substituting privately contracted demand-response service for its Sunday fixed route schedule. This amounts to nearly 5 percent of the City's total transit cost.

- Westchester County, New York contracts with 16 separate private bus companies to operate the entire county wide bus system carrying over 100,000 passengers per day. The public subsidy required in 1982 was $3.7 million. By contrast in neighboring Nassau County, where the bus system is publicly operated, the required subsidy was $8 million, even though the Nassau system carried several million fewer riders than Westchester.

- Norfolk, Virginia has reduced its subsidy per passenger by as much as 64 percent on certain fixed transit routes by switching to private contracted demand-response service, and as such is an outstanding example of a transit authority actively seeking alternatives to highly subsidized peak hour service. They have been highly creative, even visionary, in encouraging commuter bus service, ridesharing, and contracting for highly specialized or low density service--all geared towards holding expenses in line while expanding transportation services in the community. Norfolk is living proof that good transit service does not require ever-increasing subsidies and can be provided at substantially less cost than is common.

- London, England Regional Transport is in the midst of systematically returning a great deal of its mainline transit service over to private operators. Recently, LRT called for bids for service on 13 routes. Both public and private operators will bid.

The private sector can contribute to achieving another type of savings. Transit service is characterized by two daily periods of peak demand far above the level of service needed during the rest of the day. Its extremely expensive to provide the capital and labor necessary to meet rush hour demands. Services such as commuter bus, which experience shows are popular enough to recover all expenses through fares, if left to or contracted with the private sector can greatly reduce the size of a city's bus fleet necessary to buy, maintain, and operate. Private vanpools and ridesharing can also be encouraged.

Savings can conceivably approximate the amount of Federal subsidy being received. Relatively small savings can have a significant impact on the need for Federal transit assistance. For example, if a city contracted

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only 10 percent of its transit services, the estimated 25-50 percent savings would result in 2 1/2 to 5 percent reduction in overall operating expenses for that city. That comes close to the amount of Federal transit operating assistance many large cities receive.

Smaller cities typically have a larger share of their operating expenses subsidized by the Federal Government. But they also typically provide the kinds of transit service that experience has demonstrated lends itself more readily to private operation, consequently they have a higher potential for savings through privatization and competition.

Does the private sector have the capacity to respond? Yes. With bus deregulation the number of private bus companies is growing. Taxi companies have demonstrated willingness to grow in response to demand. A recent survey of 12 transit properties showed an average reseerve bus fleet of 36 percent. That, coupled with the current unused capacity of U.S. bus manufacturers, means sufficient buses are available.

Another important benefit will come from increasing the role of private enterprise in transit. The use of short term contracts targeted to specific market demands will enable each community to accommodate innovative transit services to meet local needs.

Fostering a partnership between the public and private sectors in transit will bring us much closer to the goal we all share and better transit service for more people at lower cost.

Federal/State Relationship

Although we are proposing greater reliance on State and local government and encouraging greater participation by private enterprise, we are still committed to maintaining the Federal/State partnership. The difference is in the balance of responsibility. With the Federal Government running a substantial deficit while some State and local budgets are in surplus, it is unfair to expect the Federal Government not to reduce transit funding. State and local governments have been taking a larger role in transit in recent years. Since controlling transit costs requires aggressive local management, transferring greater fiscal responsibility to local areas will force management to be more cost conscious. Some States are currently running budget surpluses; they could continue to increase support if necessary. With generous Federal capital assistance, properties have reduced emphasis on maintenance spending and renewed bus fleets. Currently, some properties are requesting bus replacement funds for buses after less than ten (10) years. Transit agencies are adding an excessive number of spare buses. In many cases they have 50-60 percent more buses than their peak need. The average spare ratio is now 36 percent compared to an average of 15 percent before Federal capital assistance. Excess spares and shorter bus life reflect an abundance of capital.

Evidence of the bus surplus is clear:

- The total number of buses ordered using UMTA funds has declined in recent years from an average of about 4,000 per year to less than 2,500 in FY 1984 despite increases in the availability of UMTA funds. The amount still available would be more than adequate to continue purchasing this number of buses.

- Not all buses are purchased with UMTA funds. A number of transit properties including Dallas, Houston, New York, San Francisco and Santa Monica have purchased buses during recent years without Federal funds. In addition, purchases by private operators, intercity carriers, and charter operators represent an important segment of the market for the bus manufacturing industry.

- Many State and local governments have used their own resources or the Safe Harbor leasing provision to obtain vehicles without the use of Federal funds. UMTA is therefore not the only source of funding for purchases from the bus manufacturing industry in the United States.

In addition, recent trends in local areas of declining demands for transit due to changing demographics and suburbanization and increasing costs to provide service are likely to continue. Thus, no matter what the level of Federal funding, many areas will be revisiting their level of transit services, thus constraining the market for new buses.

Our proposed funding request is, therefore, considered sufficient to meet local bus needs and will not, itself, have any adverse impact on the bus manufacturing industry. The Federal budget adjustments being proposed will require more careful and cost conscious decisions to be made locally. Federal operating subsidies cushion local fare and service decisions, productivity and efficiency tend to decline, fares tend to decline in real terms, and operating costs tend to increase.

Controlling these undesirable effects would ultimately require Federal control of fares and service. We believe that local officials should make fare and service decisions and provide for the subsidies necessary to cover any deficits that result from these decisions. Local officials should be held accountable for any operating deficits that result from their fare and service decisions.

New Start Problems

As evidence of the need for a new balance between Federal and State responsibility, Federal funding of new rail starts has resulted in congressional earmarking of many unnecessary projects, all but destroying our ability to fund cost-effective rail starts. This earmarking in a little over two years has the potential to result in an unfunded liability of at least $3.5-4.0 billion.

Continued Federal funding under the Discretionary Grants account for major new fixed guideway investments, or new starts, can result in the development of many inefficient, expensive transit systems that will cost more to operate than other available transportation alternatives.

These grants, with up to a 75 percent Federal share, have artificially increased the demand for expensive new rail systems. Over fifty projects currently in the pipeline or under consideration by local officials have a Federal price tag of over $18 billion--an amount this Nation cannot afford.

The existing full funding contracts for this fiscal year will be honored for the Santa Clara project in San Jose, California, the Detroit Central Automated Transit System, and the Banfield project in Portland, Oregon. The funds remaining from FY 1984 and FY 1985, after funding these three commitments, will be used for those cost-effective projects which can be completed with the funds available and will require no commitment in FY 1986.

To assess the impact of the elimination of new start funding, two points must be understood. First, UMTA has been requiring local agencies to use their formula allocated funds for new start planning and preliminary engineering, and has been reserving the discretionary resource for final design and construction. Second, the formula program will be continued, and local agencies will be permitted to use formula funds to develop fixed guideway projects. Thus, the immediate impact of eliminating discretionary funds for new starts will be limited to those few cities that are now in a position to receive a capital grant for final design and construction.

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General Description of Budget

Now that I have described our basic objectives, I would like to detail our budget proposal for FY 1986. In FY 1986, a total of $1.4 billion is requested for the various programs administered by UMTA. In line with the Administration's policy of implementing user fees wherever practicable, eighty percent of FY 1986 appropriations will be funded from one cent of the Federal tax on highway motor fuels. The FY 1986 program will continue to finance capital replacement and rehabilitation projects and support transit capital improvement projects. The important elderly and handicapped program will be maintained at a slightly higher level and we will continue to provide funds for planning purposes under Section 8. Effective in FY 1986, Federal funding will no longer be available for transit operating costs.

Formula Grants

$1.1 billion for a new Formula Capital Grants program will be funded from the Mass Transit Account of the Highway Trust Fund. This program will provide capital and planning assistance for mass transit. Capital assistance will be equitably distributed among various transit authorities by a legislative formula. It will replace the Formula Grants program now being funded from general funds.

Formula grants funds will not be available for operating subsidies. Decisions regarding service hours, service frequency, fares, labor costs are made at the local level, and local government should bear the costs of those decisions. Moreover, by law the funds from the Mass Transit Account are only available for capital purposes.

In addition to the other reasons for this funding proposal, the

Administration believes that since the funds in the Mass Transit Account are collected in all 50 states, it is appropriate to distribute these user fee receipts by formula to all 50 states.

As part of the restructuring of the formula grants program, we propose to change the maximum Federal share of all formula capital grants from 80 to 70 percent. This ratio will permit extended and more efficient use of the limited Federal resources available for mass transit. The proposal is in line with the Administration's long-standing goal of encouraging greater local commitments for projects of a purely local nature. It will also improve local decision-making in the selection of local mass transit projects.

Interstate Transfer Grants

No separate UMTA appropriation for the Interstate Transfer Grants - Transit program is requested. Effective in FY 1986, both transit and highway substitute projects are proposed to be eligible for Interstate Transfer funding from the Highway Trust Fund, subject to the Federal-Aid Highways obligation limitation.

Transit substitution projects should be paid for from the highway trust fund, not general appropriations. The "availability" of funds for these projects came about because they would not be needed for a highway. Those that remain to be completed should be funded from the original source of the "savings"--the Highway Trust Fund.

Washington Metro

The $250 million for Washington Metro under the Stark-Harris legislation will continue financing the capital cost of this system. Funds under this authorization can support an 89.5 mile system, based on WMATA's latest funding plan. We will continue our current policy of funding only cost effective, contiguous, and operable segments as well as use full funding contracts for all grants made from the remaining Stark-Harris funds. The Administration will oppose any additional special authorizing legislation after FY 1989, by which time it is planned that the budget authority will be fully utilized.

Even more doubts have arisen recently regarding funding beyond 89.5 miles since WMATA approved a 1.6 mile expansion of the system which resuled in a $131.9 million increase in cost, without prior consultation with Federal authorities.

Research and Training

No new appropriation for the Research, Training and Human Resources program in FY 1986 is requested. Rather, $24.6 million of unobligated balances will be deferred to fund a continued research program in FY 1986 for such areas as private sector transit alternatives, transit safety & security, financial planning and analysis, construction oversight, maintenance, and human resources. These funds are in addition to the $51 million available for use in FY 1985. The large carryover from FY 1984 to FY 1985 under this appropriation will allow UMTA to continue technical assistance to transit authorities.

Discretionary Grants

We are requesting no further funding for the Discretionary Grants program. Resources from the Mass Transit Account of the Highway Trust Fund, which previously funded Discretionary Grants, will now be used to fund the new Formula Capital Grants program described earlier. The distribution of

Discretionary Grants resources was inherently inequitable, with only certain large systems benefiting, which resulted in the development of many inefficient, expensive transit systems that are not cost effective when compared to other transit alternatives. The rail modernization activity provided $500 million, in the last few years, primarily to eight heavy rail cities. The bus activity fund, primarily funded the construction of bus garages and facilities. All these activities can now be funded from the new Formula Capital Grants resource.

Administrative Expenses

An appropriation of $26.8 million in FY 1986 to fund Administrative Expenses for an UMTA workforce consistent with the size and configuration of the proposed FY 1986 program (80% distributed by formula) are all that is needed.

This restructuring of the UMTA program that we are proposing obviously would require changes in the authorizing status, and we will be submitting the necessary authorizing legislation to the Congress shortly. Staffing reductions are currently planned to take place over the next three years.

Conclusion

In summary, we are proposing to continue the Federal-local partnership, readjust our respective roles to correct the inefficiency generated by Federal involvement in operating subsidies, require localities to accept the full financial responsibility for the day-to-day service, fare, and labor negotiating decisions they make, eliminate the "grantsmanship" generated by a discretionary grant program and require a higher local stake in proposed investment projects to ensure more realistic and prudent local planning, and contribute to a reduction in the Federal deficit without real harm to any national interest.

Public transportation will be strengthened by this budget proposal. Its most likely impacts will be to restore incentives for managerial prudence and political restraint in local decisionmaking, ultimately reducing transit operating costs and increasing labor productivity, to provide incentives to allow private sector competition with monopoly public systems, selective pruning of unproductive services which have been encouraged by Federal subsidies, selective revision of fare structures to introduce differential fare systems based on the costs of providing different services, and recovering a higher proportion of costs from users, and increased State and local subsidy where transit is seen as an important economic and financial priority of the area.

NEW STARTS PROGRAMMING

Senator **Andrews**. Well, as you know, your whole statement will be inserted in the record as though uttered word for word. The Secretary testified before this committee on February 21 that the Department would be submitting a reprogramming plan for fiscal year 1984 and fiscal year 1985 discretionary capital grants. That is the section 3 trust fund, as you know, funded by the 1-cent-a-gallon fuel tax funds. The committee asked that the reprogramming request be provided to this committee before this hearing. Where is it?

Mr. **Stanley**. It is my responsibility, that the reprogramming request has not yet been submitted to either this committee or to the House. I said on March 26 that I would try and provide it as soon as possible. I anticipate that request coming up here before the end of this month. I apologize to the committee for the delay.

Senator **Andrews**. Well, why has it been delayed?

Mr. **Stanley**. It pertains only to the fiscal year 1985 new starts projects. We have evaluated each on a project-by-project basis and have made some preliminary decisions on what kind of a reprogramming request we will seek. The proposal will be cleared with the Office of Management and Budget and the Secretary's office. I hope to get it up here as quickly as possible.

Senator **Andrews**. Well, when we do not get these documents when we ask for them before the hearing, the problem we run into is that when we do get them, we might have to call you back for yet another hearing. It doubles your time involved on the Hill and it doubles the time involved of the committee. It is not a really worthwhile way to conduct these hearings.

Our challenge is to get as much information as we can on the record. When we are aware of these reprogramming requests, we cannot make sure that the record is complete, we do not know what the reprogramming request looks like at the time we are conducting the hearing. So I want you to know that until we get that request, we are going to have to hold up action on your segment of the bill. Holding up the bill itself, until we get the request from you, look at it, and make the choice of whether or not to have you come back.

Now, the Secretary indicated that this reprogramming would be directed to completing full funding contracts in Portland, Santa Clara, and Detroit, as well as an operable segment in Jacksonville. She further stated, and I quote, "We are also looking at, I believe, Houston and Atlanta." Do you intend to commit those funds to Jacksonville, Houston, and Atlanta not required for full funding contracts?

Mr. STANLEY. We have reached with Jacksonville an agreement on the full funding contract which incorporates the 1984 earmark.

Regarding Atlanta and Houston we have reached an agreement and consensus within the administration that the amount of funding set aside for Atlanta will not result in the type of hole in the ground that we are attempting to avoid. We have had some preliminary discussions with Houston on the progress on their particular project. That project is unlikely to be an element in the reprogramming request. All the full funding contracts will be honored based on the commitments we have made.

NEW START SELECTION CRITERIA

Senator ANDREWS. Why were these projects selected over other projects?

Mr. STANLEY. The 1986 budget calls for an end to any new start projects. We have gone through each of the 12 projects that were included in the 1985 appropriations report to find out how you can best extricate yourself from a large capital project. It would not be appropriate if we left the funds in place and did not request a reprogramming to ensure that UMTA and the Federal Government made a sound investment in a segment or a transit project. We want to be sure that there is sufficient local funding to complete the project. We do not want to leave a commitment on a project that would be useless absent continued funding.

Senator ANDREWS. Did you use UMTA's new start criteria?

Mr. STANLEY. No; most of those have been just a pragmatic, practical decision on what would not be left unfunded.

Senator ANDREWS. Now, if UMTA designates funds for these projects, how does it plan to accommodate overruns?

Mr. STANLEY. The only funds being designated by UMTA are those funds consistent with the 1985 appropriations report. We will not designate additional funds for new start projects beyond or above the amounts in the 1985 appropriations report.

Cost overruns in each of the projects where we attempt to have a full funding contract are only paid if those overruns are eligible. There are four principal categories for which we pay cost overruns. If there are cost overruns that are eligible, we will pay them. If they are not, they are the responsibility of the grantee.

Senator ANDREWS. Now, we are in the seventh month of the fiscal year, Mr. Stanley. Yet UMTA has not released section 3 funds made available by Congress, signed into law by the President on October 12. Why not?

RELEASE OF DISCRETIONARY FUNDS

Mr. STANLEY. With regard to the section 3 program as a whole, if you look at our obligation rate for this fiscal year as opposed to fiscal year 1984 for capital funds, the rate is about 26 percent this year as opposed to about 24 percent last. So our obligation rate is not at a pace that is slower than in previous fiscal years.

Senator, the other problem with section 3, when we went to a largely formula capital program, the first activity in any given fiscal year is to review where the formula funds are going. Then with the section 3 discretionary amount we look to see, based on merit, which other rail and bus projects can be funded. Section 9 program plans breaking out where the formula funding goes are submitted in the first half of a fiscal year. Historically, most of the section 3 capital decisions are thus made in the latter part of the fiscal year.

NEW STARTS EARMARKS

Senator ANDREWS. Well, now, Mr. Stanley, you know, you have gotten a lot of ink in the Miami Herald pointing out that you are committed to getting out of the business of building new transit systems by 1986, no matter what Congress says. You point out that you sign the grants, and you are not going to sign grants for new starts. You go on to say that if you cannot spend it rationally, you are going to overrule what Congress does. Now, maybe my interpretation of the Constitution is all goofed up, but that is a rather new and a unique way of interpreting it. Congress, I thought, was the body that is supposed to designate what programs are enacted into law, what programs are funded, and to what degree. You are the action agency.

We also have a body of law that points out that impoundment is any action or inaction by an officer or employee of the U.S. Government that precludes the obligation or expenditure of budget authority provided by Congress. Now, this committee, Mr. Stanley, has not received a reprogramming request, a deferral message or a rescission request. We are 7 months into the fiscal year, and the question, of course, has to be, Are you impounding these funds?

Mr. STANLEY. The answer is, We are not impounding the funds.

Senator ANDREWS. You are just not spending them?

Mr. STANLEY. No; we are going to submit the reprogramming request as soon as possible. There is no intention whatsoever to impound funds.

Senator ANDREWS. Well, as soon as possible is when?

Mr. STANLEY. I would like to do it by the end of this month, certainly before this committee holds what I understand to be its final hearing with the Secretary's office on the fiscal year 1986 budget.

We are not impounding the funds. I apologize to the committee for the remarks that were printed in the Miami Herald.

Senator **Lautenberg**. The remarks that were printed—forgive me, Mr. Chairman. I just want to be sure, the remarks printed in the Herald were your remarks, Mr. Stanley?

Mr. **Stanley**. I said that, but it was taken out of context, Senator Lautenberg. When leaving the room, a reporter asked me if, based on some of the projects that had been discussed in Florida, was there any indication of congressional intent or UMTA's intent to fully fund the Jacksonville and the Miami projects. I indicated no. The process we were going through in the 1986 budget was very similar to what was done in 1981 when the demonstration projects from the prior year were prohibited.

Senator **Andrews**. Well, you are confusing us with the House. We do not have another hearing with the Secretary. All we have left is the Coast Guard, and then we will have to hold up this funding bill until we receive information back from you, which might operate to the detriment of a number of other agencies who have an interest in getting some money. So I hope you understand that you are holding up quite a process here. Also, do you intend to eliminate the already provided earmarked funds for Los Angeles, Miami, Houston, St. Louis, San Diego, Buffalo, Jacksonville, Seattle, and Atlanta?

Mr. **Stanley**. A portion of those funds would be the subject of the reprogramming request. That is the decision process that we are currently going through. As I indicated, for all the projects that have full funding contracts, we will honor the earmarks in the 1985 appropriations report. In the case of both Atlanta and Houston, I would anticipate that we would not request reprogramming for those projects.

UNOBLIGATED BALANCES

Senator **Andrews**. On December 14 of last year, the committee asked you to please provide a breakdown of UMTA's unobligated balances. Now, this is information absolutely necessary for the committee to do its work. It took you 4 months to provide some of the data, April 15. Why could it not have been produced in a more timely manner?

Mr. **Stanley**. I think that one of the problems UMTA has had over the last several years is an outdated and outmoded accounting system. There has been a great deal of improvement made with the support of this subcommittee in funding a computerized system both for grants management and financial management.

I had the same frustration that you expressed with regard to getting accurate figures on unobligated balances, where those unobligated balances are and reconciling them with over 900 grantees that UMTA has. The figures we were able to provide you after 4 months are accurate. This is the first time UMTA has been able to get an accurate picture of where the unobligated balances are and their total. Now we are going through the process of trying to figure out why unliquidated balances in excess of $8 billion and unobligated balances in excess of $1 billion exist in the UMTA program.

Senator ANDREWS. Well, you are kind of like a cat chasing its tail. You want to cut the budget because of these unobligated balances, yet you do not give us the information on the unobligated balances so we will know what the true information is. Now, is the information that you gave us on the 15th of April official?

Mr. STANLEY. Yes; it is.

Senator ANDREWS. In your prepared statement you state that about $1 billion exists in unused formula funds. Of the unused funds, how much is from funding provided in fiscal years 1983, 1984, and 1985?

Mr. STANLEY. I believe the total amount on that is about 70 percent. I can get that.

Senator ANDREWS. Well, we will take it for the record if you do not have it.

Mr. STANLEY. I will provide the answer for the record. We do have a breakout by each fiscal year.

[The information follows:]

Distribution of unobligated formula funds at the end of fiscal year 1984

Fiscal year:	*Millions*
1975–81, sec. 5	$92.7
1982, sec. 5	93.0
1983, sec. 5	180.9
1983, sec. 9A	90.8
1983, sec. 18	17.8
1984, sec. 9	499.7
1984, sec. 18	37.2
Total	1,012.1

OBLIGATION OF FORMULA FUNDS

Senator ANDREWS. Have all these funds been apportioned to the localities?

Mr. STANLEY. Yes; we have been able to publish the formula apportionment available for each individual locality early in the fiscal year.

Senator ANDREWS. Of the apportioned funds, how much has been applied for?

Mr. STANLEY. That I would like to answer for the record. Most, the predominant amount of the funding, which would have been from the formula program, has not been applied for.

Senator ANDREWS. And of the amounts applied for, how much has UMTA not released, and why?

Mr. STANLEY. I would say that I would like to answer specifically that amount for the record. The amount that we have not approved that has been applied for, with all the application requirements met, I would say is very negligible.

Senator ANDREWS. OK.

Mr. STANLEY. Part of the delay in providing these unobligated balances were concerns I had about the accuracy of the figures. Some of the allegations made implied that part of the delay in the funding occurred from UMTA's delays in processing. I am assured, having checked with the regional offices that very few of the grants that have met application requirements are being delayed in the processing that occurs between our regional and headquarters offices.

[The information follows:]

So far this fiscal year, approximately $685 million of the apportioned formula funds have been applied for and obligated. Applications for additional funds have been received, but our regional offices have reviewed them and found that all of the application requirements have not been met. Our procedure is to contact the grantee and request that they provide the missing elements. Once an application for formula funds is complete, it is usually obligated within a week. Once funds are obligated in the regional office, it usually takes about 2 weeks for the grant to be released or announced. As of April 30, $470 million of these funds has been released. The remainder of the obligations representing $215 million is currently going through the release process.

NEW STARTS-UNFUNDED LIABILITY

Senator ANDREWS. Now, in your opening statement you allege that congressional earmarking has the potential to result in an unfunded liability of at least $3½ to $4 billion. How did you arrive at that estimate?

Mr. STANLEY. That estimate is predicated on the construction plans submitted to us by each of the 12 earmarked projects. It is based on their cost estimates, their proposed construction schedule, and our projections on how much will be available in the trust fund over the current authorization period.

Senator ANDREWS. Well, I know, we are being hit with the total cost. We did not necessarily approve every segment.

Mr. STANLEY. No; I understand that. I think that is the problem that has occurred in large part in some of the cities and properties. This committee made it very clear last year that funds that were allocated for these individual projects did not constitute congressional or Federal approval of the whole project as contemplated. If urged, localities would attempt to come up with alternate sources of local funding. I have been to all of the 12 cities with new start projects. The message that the Federal Government's commitment is not to the whole project, regardless of what happens in any given fiscal year, has not been received by these cities. There is a full expectation in a number of those cities that the full project, at its full construction cost, has been approved by the Federal Government.

WHITE HOUSE BUDGET COMPROMISE

Senator ANDREWS. Now, if the Senate leadership-White House agreement represents the latest proposal for mass transit, does this mean the Department has pulled back from its original budget request?

Mr. STANLEY. Right now, the Senate leadership compromise package is the administration's position. I have discussed it with both the Secretary's office and OMB. However, it is acceptable to the administration only on the condition that the whole package passes. I could not predict what the reaction of the Department would be if there were significant changes made in the leadership budget compromise package. If that entire budget compromise package were to pass as is, it would substitute for the original fiscal year 1986 budget request.

Senator ANDREWS. In other words, this represents your request only if the cuts in education, the increase in defense, the elimination of rural electrification, and all hold?

Mr. STANLEY. It is a package deal.

Senator ANDREWS. You are getting to be an expert. You want to cut out Amtrak or you are not going to do your reductions, too. So it is kind of nice to have everything all tied together in one loop. I have some additional questions for the record. I am supposed to be at the White House directly, but I will ask those questions for the record. Senator D'Amato?

BUFFALO LIGHT RAIL PROJECT

Senator D'AMATO. Thank you very much, Mr. Chairman.

Mr. Stanley, I understand the problem with respect to reprogramming in general, but I am specifically interested in one of those areas that has been earmarked, and that is the $2.7 million as it relates to Buffalo, and that $2.7 million is designed to be the final payment. It really is to complete the $6.4 million operable segment of the Buffalo light rail, and in addition, there is some urgency in that service is supposed to be started next month. Now obviously, I think it would be a mistake to hold up that $2.7 million. It is not a new start. It is a completion in a multimillion-dollar program which has been substantially within cost. Can you assure this committee or this Senator, No. 1, if you feel that this really fits within the budget constraints and those criteria that have been set forth?

Mr. STANLEY. As you know, Senator, we have a full funding contract for the Buffalo project. We have gone over with the officials in Buffalo what the $2.7 million would be utilized for to determine if it is consistent with the provisions in the contract. As of today, we have not decided that it will be part of the reprogramming request. In terms of equity and also the fact that it does complete our entire commitment to Buffalo for construction, there are valid reasons for not asking for a reprogramming of that amount of money. We will take those considerations fully into our deliberations both at UMTA and within the Department.

Senator D'AMATO. Of course, I am going to try and get you to make a better commitment than that. Let me say that when we have spent $400 million plus and I do not have the exact number, but this is the final link, $2.7 million to complete this light rail facility, would seem to me should be reprogrammed. It is essential, because otherwise, those dollars have been wasted. That is No. 1. Second, that with respect to any cost overruns or contract disputes, certainly you would not be waiving rights to take any appropriate actions. May I suggest for the record most respectfully that you include this in the reprogramming and that it be done as expeditiously as possible. I think it really makes good sense to undertake this.

NEW STARTS REPROGRAMMING

Mr. STANLEY. We will do it as expeditiously as possible and take into account those factors, Senator.

Senator D'AMATO. When do you think that is going to take place?

Mr. STANLEY. I would hope it will take place before the end of the month, and the first thing I will do when I get back this afternoon is complete our recommendations on reprogramming. But it will take place certainly within a timeframe that will not result in a great deal of delays for the project up in Buffalo.

Senator D'AMATO. Well, again, the urgency being the May startup date. We are in April, and I would hate to think that the failure to reprogram would compromise the completion date and the startup date which has been heralded. It has brought about a great deal of economic rejuvenation in the downtown area already. Just the operation as it is being undertaken at the present time in its limited form, without the revenue aspects attendant to it, have had a very beneficial impact in that community. So I would not want to think that the administration would put itself in a rather vulnerable position by withholding these funds at this time.

TRANSIT CRIME

One of the areas in which I would be remiss, first of all, if I did not commend you, because then I will bring up some of the areas that I am concerned about and will not commend you on, urban mass transit, is at our initiative with respect to providing funds to fight crime on our mass transit systems.

I quote from the President in his State of the Union address when he said:

> Of all the changes in the past 20 years, none has more threatened our sense of national well-being than the explosion of violent crime. One does not have to be attacked to be a victim. The victim who must run to her car after shopping at night is a victim. The couple draping their door with locks and chains are victims, as is the tired, decent cleaning woman who cannot ride a subway home without being afraid.

I share those sentiments, and I think certainly people in the New York metropolitan area and in other areas of this country understand that you are a victim of crime if you are restricted from undertaking the normal day-to-day activities. Activities that 20 or 30 years ago no one would have given a second thought to, that is, the use of mass transit facilities or walking in the park, or strolling down the street, and living behind the locks on the doors.

One of the things I am concerned about is that after we have made a magnificent start, and I want to commend you for making available the moneys, the $15 million for programs to fight transit crime, not be jeopardized in our future funding. Can those moneys continue to be provided for? Let me give you an example of what we were able to do. As a result of your providing urban mass transit funding for crime fighting initiatives in New York, we were able to leverage that $11 million that came from UMTA with another $11 million from the local transit authority in New York. That provided a $22 million initiative that hopefully will produce a result in curtailing the incidence of crime by making safe zones, by bringing in closed circuit TV cameras, by these kinds of innovative techniques, parabolic mirrors, vandal-resistant lighting so that they do not knock out the lights and lay in wait for the unsuspecting traveler. What is your opinion with respect to these initiatives? These are discretionary funds, will you earmark these moneys, substantial moneys, for these crime initiatives?

Mr. **Stanley**. I think that the observations you have made about the merit of transit security-related investments are as valid today as they have ever been. One of the great threats that a number of these systems face is the fear of being exposed to violent crime. We have attempted, Senator, in our research program to redirect funding from some of the more hard capital based technological projects toward transit crime and transit security. Some of the properties have directed some of their own capital funds that way. New York has made, I think, some real progress in that direction.

We will continue to make that an emphasis as part of our research program. We have in the past conducted training programs on a quarterly basis for transit operators. I think we have an exemplary record in having trained about 2,500 people over that time for that. We have also participated in peer reviews of security systems. In New Jersey we have made a grant available for communications equipment among all the buses within the fleet. Your efforts in New York, which I in turn would like to commend you and congratulate you on, toward getting the New York City Transit Authority to focus on the issue of crime and security maintenance will continue to get that issue emphasized as much as possible.

We have not since set aside that level of funding, or had as many applications for transit crime from other areas as I would have liked to have seen. Other areas do have the same problems, though certainly not to the extent that has been experienced in the New York system. I would encourage other properties to also take advantage of that program. Peter, you may want to comment a bit.

Mr. **Benjamin**. No, thank you.

Senator D'**Amato**. Peter, are you going to comment?

Mr. **Stanley**. Peter has deferred from commenting.

Senator D'**Amato**. Peter, the boss has asked you to respond. [Laughter.]

Mr. **Benjamin**. I thought my boss did such an excellent job.

Senator D'**Amato**. You are going to rest at that point?

Mama D'Amato once told me that, son, if you think you have won the case, keep quiet. [Laughter.]

Mr. **Benjamin**. I think I will keep quiet.

BUFFALO SECURITY PROPOSAL

Senator D'**Amato**. No. Peter, let me ask you now, now that we have you, the Buffalo Transit System which recently won State approval for its own adjudication system to prosecute fare evaders, has applied for section 6 demonstration funds to establish this program. Now, since Buffalo has not yet received any response from you, what is the status, if you are the crime expert, of this application.

Mr. BENJAMIN. I believe actually that is a section 4(i) application, at least as I remember it, and that is currently under review.

Senator D'AMATO. Section 6 demonstration, but when will that review be made? You see, here is a unique opportunity. An opportunity to get ahead of the problem. I think understanding the massive investment that has been made in this system, that goes back for a decade, that I would hope, and we are talking about really the transit court, to adjudicate these, to demonstrate to the people that you are going to move quickly.

One of the strong points in the operation of mass transit, and people are so impressed when they ride the Metro system here in the District of Columbia, is that it is kept clean, there are rules, and they are enforced. They got off on the right foot running in the right direction, and obviously have learned through experience. The experience of others who have had failing systems, fare beaters, and people who brought all kinds of food, and the graffiti artists, et cetera. We are going to start handling this the right way. People are going to feel safe. It is going to be a clean environment that we are going to maintain. Obviously the contrast is so dramatic that when people from other areas of the country, and the New York metropolitan area in particular, come and ride these systems, they say, my gosh, it is fantastic in comparison to what we see.

Now, here the Federal Government has spent hundreds of millions of dollars on the Buffalo light rail system. I might have thought that maybe hindsight would have said you could have had a people mover system in a different way, in a different manner, and not had the disruption, et cetera, and not have been as costly to maintain or to run, et cetera, but that is all hindsight. That money is there and is done. It would seem to me that this application with a modest investment, again, might ensure that some of the vandalism, some of the kinds of antisocial activity that would take place when people do not see there is a strong deterrent, that the operation is going to be run strong, that there is a transit court, for example, to take care of this without just releasing them out into the street and becoming a subject of coming before the court 6 or 8 months later, may prevent the kind of vandalism and deterioration that we have seen, let's say, in the New York City subway system. So what is your comment on that, Peter?

ELIGIBILITY OF BUFFALO SECURITY PROPOSAL

Mr. BENJAMIN. The application is a very interesting one which focuses on activities that are quite similar to what San Diego did quite successfully. The implication is that a similar level of success could occur in Buffalo. I believe one of the major areas of focus is on the issue of fare evasion, which is also a major problem in New York City, and adjudication associated with people who just do not pay their fares. The application is currently under review, and I would hope that there will be a rapid conclusion reached on that project.

Mr. STANLEY. I think what Peter is trying to say is that it is a very engaging application. There are two problems with it. One is a question of eligibility under the section for which they applied. Second, to my recollection, I think the amount of the application is for a fairly large chunk of the funding we had under the program. So whether or not we can work with Buffalo to scale down that request will have to be determined. We will try and resolve it very quickly.

Senator D'AMATO. Let me suggest that I would appreciate it if you could do that. Obviously you feel that the application is meritorious, that there are not those kinds of dollars and it must be something somewhat less. It would seem to me that a negotiation in that area might be appropriate. And so I would commend that to your attention only because I think it is going to need all the help it can get, that system up there, in the way of preventative kinds of activities to see that it does not deteriorate. Washington again, the Metro system here having been an excellent example of a system that enforces its rules, whether it be on fare beating or that type of operation, and I think that is what we should try to seek where we have invested these massive funds.

Again, we do not generally give too many in the way of accolades. I am deeply appreciative, I think the people of New York will be, as a result of the funds that were made available for the crime initiatives. I am not happy with the MTA up in New York and its failure to give us a really firm commitment that they are going to see that those funds are applied as vigorously and as expeditiously as possible. We had to get on them. They were talking about 3 years, you know, and that is not being fair to the people. Senator Lautenberg, do you have some questions?

PREPARED STATEMENT

Senator LAUTENBERG. Thank you, Mr. Chairman. I have a statement that I want to submit for the record that I was unable to present earlier, and will submit that.

Senator D'AMATO. Certainly.

[The statement follows:]

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Thank you, Mr. Chairman.

I have now sat here through budget hearings on a number of modes of transportation including Amtrak and FAA. Today we hear about the President's mass transit budget. It is clear to me that the fiscal year 1986 budget places our national transportation network in great jeopardy.

I'm as committed to deficit reduction as anyone, but I see transportation as an essential part of our economy. We must have the ability to move people and goods. These reductions are often penny wise and pound foolish.

In 1985, mass transit was three-tenths of 1 percent of the total Federal budget, yet they will bear 5.5 percent of the cuts. In fact, mass transit makes up 75 percent of the reductions in the transportation budget. These cuts will hurt our economy without contributing much to deficit reduction.

Mass transit is to New Jersey what wheat is to Kansas or potatoes, Mr. Chairman, are to North Dakota: It is part of our economic lifeblood.

I don't think the administration has taken account of the economic consequences of this budget. I will direct my questions to these concerns.

FISCAL YEAR 1986 BUDGET PROPOSAL

Senator LAUTENBERG. I have sat here through budget hearings on a number of modes of transportation, including Amtrak and airlines, and today we hear about the President's mass transit budget. It is clear to me that the fiscal year 1986 budget places our national transportation network in great jeopardy. I am as concerned about the budget deficit as anybody else is, but I see transportation as an essential part of our economy, and we have got to have the ability to move people and goods quickly and effectively.

In my view, these reductions are penny wise and pound foolish. In 1985, mass transit, Mr. Stanley, was .3 percent of the total Federal budget, and yet they are going to take 5.5 percent of the cuts that are being proposed. In fact, mass transit makes up 75 percent of the reductions in the transportation budget. The cuts are going to hurt our economy without contributing very much to the budget deficit, to the deficit reduction. Mass transit is to New Jersey what wheat is to Kansas or potatoes to the chairman's State, North Dakota. It is an essential factor in the functioning of our economy. Frankly, I do not think the administration has taken into account the economic consequences of this budget deficit reduction attempt. I am going to direct my attention, my questions to those concerns.

Mr. Stanley, I need to know what budget we are dealing with. Your testimony refers to the budget proposed by the President earlier in the year calling for a 70-percent decrease in mass transit. The White House and the Senate majority leadership have arrived at reductions of 20 percent in general revenues over 5 years, eventually getting to the President's goal. Now, which is the White House budget today? The one before us this morning or the one that is going to be offered on the Senate floor next week?

Mr. STANLEY. The budget before us today is the one that will be offered on the Senate floor next week and will remain so as long as the entire budget compromise worked out with the Senate leadership remains intact. If that budget compromise begins to unravel, I am frankly not clear myself, Senator, what the administration's response would be.

ACCURATE FINANCIAL DATA

Senator LAUTENBERG. The comments in response to the chairman's questions before about the reprogramming material, the report that was due, and you said you hope to have by the end of April, you ascribe the delay to resources unavailable. Was that due to computer programs, which provide inaccurate data, or are there other factors involved?

Mr. STANLEY. On the reprogramming request, the delay rests solely with me. We have been going over each of the projects in the new start category for which we will request a reprogramming.

With regard to coming up with the accurate figures on the unobligated and unliquidated balances in all the UMTA accounts from prior years, part of that is a result of an outdated and unwieldy accounting system which I think UMTA has made some great strides in clearing up. The thing that concerned me with regard to releasing those figures, more than anything, was not to release figures that I did not have any confidence were accurate. Over the past 6 months, as we have taken a hard look at the balances of unobligated funds, at the balance of unliquidated funds, we have on several occasions had to reconcile those figures with what the headquarters office felt to be true. My hesitancy was purely not to rush out with figures that were way off or inaccurate or to provide to this subcommittee those kinds of figures that I did not have confidence in myself.

Senator LAUTENBERG. So the reluctance to issue the report has to do with your confidence in the accuracy and that is based on antiquated systems. Therefore, we have to assume that reports that have been issued in the past by the Department are equally questionable, perhaps inaccurate.

Mr. STANLEY. I have full confidence in this report by the Department and most other reports that UMTA has provided to Congress. To my knowledge, we have not given to Congress a comprehensive review of the unliquidated balances.

The real affirmation of the accuracy of the figures was based on a review that resulted in a reconciliation of individual project amounts with field offices and grantee records. Individual records now agree with the overall unobligated and unliquidated control figures reported to the Treasury at the end of fiscal year 1984.

Senator LAUTENBERG. So that it is not so much the under-resource that you describe as the question of getting some kind of an agreement that confirms what you believe is more accurate in terms of the unobligated funds and so forth.

Mr. STANLEY. Right. I believe we have currently in place at UMTA, the necessary resources and computer systems both on the grant side and the financial management side to provide for this year and in outyears quick, accurate information on the status of UMTA grants. That is a capacity that the agency, did not have before with any degree of accuracy.

STAFFING LEVEL WITH A REDUCED PROGRAM

Senator LAUTENBERG. It has nothing to do with the size of the staff that you have there?

Mr. STANLEY. Not at all.

Senator LAUTENBERG. So the 179-person reduction recommended will not affect any of the operations of the Department? Those people are essentially then redundant right now. I mean, if we are not going to have them in the future, did we need them now?

Mr. STANLEY. The program that we discussed and the ability to come up with accurate figures does not involve a very high proportion of UMTA staff at all. With regard to the proposed personnel reduction, if the program is reduced as proposed in the 1986 budget, largely to a formula program, it could be run with a reduced staff level as has been proposed. The staffing level would be commensurate with a reduction in the size of the program.

Senator LAUTENBERG. So that what we are doing is putting the tools, we will put the tools in place to destroy the programs that heretofore have been mandated by the Congress. I mean, if the Congress changes its mind in terms of the new budget, obviously, then it is going to change the programming and the supervision needed to administer those programs.

Mr. STANLEY. With a reduced program, there would be a reduced amount of staff required to run it. If the Senate budget compromise passes as currently proposed, I think we could run UMTA with significantly smaller staff and perhaps consolidate some of the regional offices.

TRANSIT STUDIES

Senator LAUTENBERG. Mr. Stanley, I have a study which I am sure you are familiar with, the American Public Transit Association. You talk about it in your statement. You dismissed it fairly simply, a page or so. You in turn quote studies of your own. Do we have the names of the people who conducted those studies, the authors of the report? Do we have them here at the committee level?

Mr. STANLEY. I can provide them. The studies I have quoted from largely have focused on the impact of a reduction in operating assistance. And I consider them to be the fairly comprehensive analysis of what we have bought over the past 10 years with the operating assistance UMTA provided. The authors of those studies, that we have focused on, are Roger Teal from California, Don Pickrell, who has done a number of surveys for us, who is up at Harvard, and Robert Cervero, who is at Berkeley. We have also had Peat-Marwick do a review on a case-by-case basis of the State budget situation. That study you have before you is, I am told, apparently just today been mailed to UMTA. We have not had a chance to review that survey yet. We asked for it 2 months ago and did not get it.

Senator LAUTENBERG. So you know how we feel here, waiting. You are experienced in both delaying and waiting. You will furnish——

Mr. STANLEY. All those studies for the record, certainly.

[The information follows:]

The studies referred to include the following:

Cervero, Robert. "Intergovernmental Responsibilities for Financing Public Transit Services." Final Report of research conducted at Department of City and Regional Planning, University of California, Berkeley, under UMTA University Research Grant, CA-11-0023, U.S. Department of Transportation, November 1982.

Lee, Douglass, B., "Evaluation of Federal Operating Subsidies to Transit." Staff Study of U.S. Department of Transportation, Transportation Systems Center, Cambridge, Massachusetts, November 1983.

Pickrell, Don H., "The Cause of Rising Transit Operating Deficits." Final Report of research conducted at John F. Kennedy School of Government, Harvard University, under UMTA University Research Grant, MA-11-0037, U.S. Department of Transportation, July 1983.

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Teal, Roger F. (Institute of Transportation Studies, University of California, Irvine). "Transit Service Contracting: Experiences and Issues," paper presented at the 64th Annual Meeting of the Transportation Research Board, January 1985.

IMPACT OF BUDGET IN NEW JERSEY

Senator LAUTENBERG. In your reference in your statement you talk about the special interests which you allege are behind this study. And the special interest in New Jersey happens to be a State agency. The head of the agency is appointed by our Governor, Governor Kane, and they have the same job that you do, and that is providing mass transit services to the public. What is your assessment of this budget's impact in my State? Do you have any idea?

Mr. STANLEY. I think New Jersey is an illustrative example. It is also my State and I have a particular interest in it.

Senator LAUTENBERG. You are not representing it here and I am, so it changes the rules a little bit. [Laughter.]

Mr. STANLEY. For this fiscal year, before any 1986 budget cuts, New Jersey is going to get from us about $155 million in operating assistance. I have not seen their response to that survey, but as indicated to the State, to replace that operating assistance totally in 1 fiscal year, as proposed in our 1986 budget, they could do one of three things: raise fares about 18 percent.

Senator LAUTENBERG. Naturally.

Mr. STANLEY. They could increase the State aid to New Jersey transit by about 24 percent. This is a State which has reported at least in fiscal year 1984 a $600 million surplus and anticipates a surplus on the order of $400 million in fiscal year 1985. The New Jersey localities that benefit from the statewide transit agency to date contribute about $63,000 totally to the functioning of that system. On the other item, capital equipment for New Jersey, one of the things I would encourage my home State to do is something that was done in New York. They could issue revenue bonds. I would commend the Governor and the State for coming up with a transportation trust fund to make an investment in transit capital.

If they had a 10-percent fare increase it would raise about $23 million, which in turn would probably give them a bonding capacity of about $160 million. I think that New Jersey also could avail itself of the services, particularly on the bus side, of a number of the private operators to save some of the needed subsidies that they require.

It is difficult for me to understand that in New Jersey which has enjoyed surpluses and is anticipating a tax cut, why there can be no reduction in Federal assistance to transit capital and operating assistance. Why does the State contribution in an era when it has a surplus and we are confronted with a deficit, have to remain fixed.

Senator LAUTENBERG. Mr. Stanley, you come from New Jersey and you know that we are a busy, bustling little State, the most densely populated in the Union. Would it be your guess just off the cuff that there are no other needs in the State besides transportation that we can direct? I would appreciate it if you would communicate that to the

Governor directly because he will laugh if I propose to him that the entire surplus that has become temporarily available be used to accommodate these needs.

We have got, you know, an abundance of environmental problems and all kinds of things. Three of America's poorest cities are in our midst, and those folks typically have only public transportation available to them, mass transit available, and it is an essential. The one thing that we do not dare do, as New Jersey kind of reaches out and regains the stature that it justly deserves in a great spurt of economic vitality, we do not dare present the notion that New Jersey's relatively good and developing transportation systems suddenly are going to be short cut and we are going to be turning everybody back out onto the highways wherever we can in their own cars and jamming the place up. There is no sensible company that will want to locate there. The transportation facility in our State is the critical element in many business decisions to locate there.

REDUCTIONS IN AMTRAK

The President's budget also includes massive cuts in Amtrak, as you well know. If those cuts are approved, the clocker trains which Amtrak runs between Philadelphia and New York will stop operating. Do you agree with this? Do you agree with the assumption? I mean, Graham Claytor was here, and he said that they are just not going to operate. Did you factor that in to your analysis of the impact on New Jersey transit?

Mr. STANLEY. We did not conduct an overall analysis, other than what particular UMTA funds had to be made up by New Jersey if our budget cuts as proposed went through. We did not quantify what the share of that cut would be if Amtrak service were eliminated. I have understood Mr. Claytor to say that they would shut down that service. I have spoken with the Federal Railroad Administrator as to what kind of service could be preserved by Amtrak absent any Federal subsidies. But no, we did not conduct any cost analysis of the impact on New Jersey transit.

Senator LAUTENBERG. You are familiar with the clocker trains, I think, do any of your people have a figure as to how many people use the Amtrak clocker service between Philadelphia and New York? I think it is 18,000.

Mr. STANLEY. We can get that information.

Senator LAUTENBERG. Well, it will not help me in this questioning, but you supply what you think the use is, and if it bears out our recall of about 18,000, we are going to terribly overburden the highway system that exists and make it impossible for people who do have to live in one area and commute to the other to be able to function.

[The information follows:]

According to the Federal Railroad Administration, in 1984, clocker service trains carried 2.39 million riders or about 9,500 on an average day.

RAIL MODERNIZATION

Senator LAUTENBERG. There is an engineering study I think you are familiar with requested to be delivered a lot of years ago, 1979, December of that year. It indicates that rail modernization essential to a smooth running rail system is needed, and I believe it is referred to as the Gannett Fleming study and was requested by Congressman Coughlin of Pennsylvania when you appeared before the House Committee. The request was made, am I correct?

Mr. STANLEY. Yes.

Senator LAUTENBERG. Has the study been delivered?

Mr. STANLEY. The study, which we anticipated getting delivered in mid-April, is to consist of a draft of the engineering report. As of today, we have not received it from Gannett Fleming. As I indicated to Congressman Coughlin in our House hearing, when we receive the engineering phase we are going to do an in-house review. We will focus on the needs included in that study, such as how many of those are actually contemplated by the properties to be improved, and whether there has been any kind of cost-benefit analysis, or if it is merely an engineer's report absent any funding constraints on what would be done for each of the rail cities cited in the study.

Senator LAUTENBERG. Before you evaluate it, let's get it. It is going to be here, you say, mid-April?

Mr. STANLEY. Certainly.

Senator LAUTENBERG. Well, we are at April——

Mr. STANLEY. It will be at UMTA in mid-April.

Senator LAUTENBERG. It will be at UMTA, and you will turn that over to us immediately after you get it?

Mr. STANLEY. Immediately after we get it and review it.

Senator LAUTENBERG. Well, you can analyze it after you have given us a copy of the report.

Mr. STANLEY. Sure.

Senator LAUTENBERG. There is nothing that says that these have to be sequential events, am I correct, because we may want to do a parallel evaluation. So you would have no problem with that.

Mr. STANLEY. Once, again, the report to be delivered to Congress would go through the Department's normal clearance process for any congressionally requested report.

Senator LAUTENBERG. It is not a security problem for our country, is it?

Mr. STANLEY. No; it is not, but the report that was requested is not complete. The engineering phase is what we are to get, not the complete report.

WEST SHORE LINE PROPOSAL

Senator LAUTENBERG. I will take no more time. Well, if I might impose on my colleagues, one more minute. Bergen County I think was your home, right?

Mr. STANLEY. Yes, sir.

Senator LAUTENBERG. You went up there recently, and I know that you are not playing any favoritism because you would not be so harsh on a favorite as you are if these budget cuts go through, so you are not favoring New Jersey, but you did visit, and you did visit Bergen County. You looked at the proposal to reactivate the West Shore Line, and you said that you were impressed, I think I quote you here, with the potential of the project. New Jersey Transit submitted a scope of work on this project January 28 of this year. What is the status of the preliminary engineering and design of this project, do you know?

Mr. STANLEY. We have received it. I had encouraged them to submit that proposal which is currently under review. I anticipate our going ahead with the preliminary engineering phase. A majority of the impact, as you know, is up in Rockland County for the complete West Shore Line.

Senator LAUTENBERG. Well, you want to be nice to New York. My colleague from New York knows that. Particularly, you want to have train service for the people who commute to the service and the fact that it passes through New Jersey on the way should have us cooperating very vigorously to get this line activated.

Thank you, Mr. Stanley. I think it is fair to say in closing that you know very well the critical role that mass transit plays in our region and our State, and I hope that we will be able to persuade you to talk to the folks that you report to to reconsider what I think is an ill-advised decision to cut back assistance for both operating and capital development of mass transit systems. The people who ride those systems typically cannot afford to pay the kind of fare increases that are going to be required. It does all kinds of things, as everybody knows, from the energy and traffic and clean air side as well. So thank you very much for the opportunity to chat with you before the committee.

Mr. STANLEY. Thank you, Senator.

Senator LAUTENBERG. Thank you, Mr. Chairman.

FUNDING FOR WASHINGTON METRO

Senator D'AMATO. I have a number of questions I am going to submit to Mr. Stanley for the record and ask you to answer on behalf of Senator Abdnor.

Let me just touch on one aspect. I think it has to do with an element of fairness and fair play. I am not certainly deriding this very positive achievement of the Metro rail system here in the Washington area, but it seems to me that while other areas of the country are experiencing cutbacks, et cetera, it is hard to justify how the funding levels for this particular project have not been affected at all. What would your justification for that be?

Mr. STANLEY. I think in terms of equity and fairness to the rest of the country, you are absolutely correct. The justification for the 1986 request for the Washington Metro system was based on previously authorized Stark-Harris funding in which there remains a balance near $1 billion. I have attempted to try and get the board of directors of this

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transit authority here in Washington to recognize a much higher local financial commitment.

I would like to say before the subcommittee that that system at current projected costs would be in excess of the total amount that the Federal Government would have or will have paid for projects like the Tennessee Tombigbee, the Garrison Diversion Water Project, or the Central Arizona Water Project, and will probably be the largest single public works transportation project in the history of the country outside of the Interstate System.

The Senate leadership-White House compromise does cut the proposed funding for the Washington system by 25 percent. The original request was based on prior year funding levels.

Senator D'AMATO. Well, of course, I respect your candor, and I would also point out that there are other authorizing marks that the Congress has put forth, and that is why I think to say that in this particular case you are going to treat it in a very special way, while I understand the transit needs of this area, and I ride in on the George Washington Parkway. It is worse and worse every morning as you get more and more development out there. I am not against Metro, and I encourage mass transit, but I think that equity is something that our people have a right to expect throughout this country.

INCOME OF TRANSIT RIDERS

I would also like to make two observations for the record. One, there is no secret that I have been a strong proponent of operating assistance and it continuing. I do believe that if we were to look at the history of operating assistance, aside from the rhetoric that comes from both sides, those who are totally opposed to operating assistance and those who believe it has a very strong integral part of the national fabric. By providing opportunities for people to get to and from work, people of the most modest means, the fact of the matter is that your own UMTA statistics have indicated UMTA's own section 310 report on page 31 shows that 70 percent of the transit riders have incomes under $20,000 a year and that 40 percent have incomes near the poverty level, less than $10,000 per year. So I think we should understand the nature of the people who we are moving and that it is not this great middle class subsidy that some might claim. Now, having said that, I am not going to ask for a response, but I just think it is important.

Senator CHILES. Well, I would like to have his response. I would like to know why in his statement he says only one out of seven are low-income recipients, and the 310 study shows it is directly opposite that. What is the basis of your study of one out of seven?

Mr. STANLEY. Well, we had a 1977 personal transportation survey.

Senator CHILES. Nineteen what?

Mr. STANLEY. 1977, that indicated that it was less than 50 percent. Let me answer the question more directly. We have also had a study that has indicated that of that income group.

Senator Chiles. Well, the 310 study is October 10, 1984, right?

Mr. Stanley. The 310 study that was submitted is not all the transit riders, and was done on the basis of selected properties and the income nature of selected properties.

I will not contest——

Senator Chiles. I do not understand.

Mr. Stanley. It was not done on all the transit properties that we provide subsidies to. It was a selected sample.

Senator Chiles. Is your statement based on all the transit properties that you provide assistance to, one out of seven? Where are the facts for that? That is not the 1977 study, you are not quoting your 1977 study, are you? My God.

Mr. Stanley. The ratio of one out of seven is based on an analysis of the population of all those under $10,000, not just limited to the community or the group that happens to ride transit, but one out of seven of those individuals living in standard metropolitan statistical areas [SMSA's] utilized public transportation for their journey to work. The ratio becomes even smaller if you count those with incomes below $20,000.

Senator Chiles. Is it based on a study of checking the people that ride and saying of the people that ride this transit system, only one out of seven is a poor person?

Mr. Stanley. It is based on the 1970 census data.

Senator Chiles. 1970?

Mr. Stanley. Yes.

Senator Chiles. Gee.

Mr. Stanley. I apologize. The 1980 census data, Senator, indicated that approximately 14 percent of that income group uses public transportation. I will not contest that the majority of riders on public transportation are those in lower income groups.

Senator Chiles. You will not?

Mr. Stanley. I will not.

Senator Chiles. You will not protest that?

Mr. Stanley. I will not contest that.

Senator Chiles. Yet you would put in your statement, your public statement that only one out of seven. Now, that is a little different to say I will not protest, but yet I will put a public statement out and say only one out of seven.

Mr. Stanley. The public statement I submitted said that of all those that had that income level, one out of seven uses public transportation.

Senator Chiles. Do you not think that is kind of flimflamming us and flimflamming whoever is going to read your public statement?

OPERATING ASSISTANCE SUBSIDIES

Mr. Stanley. It was not intended to do that, nor do I think it does. I think that analysis in the 1980 census is correct. If you take a look at all those who do use public transportation, the predominant amount are those in the under $20,000 income group.

The way we have provided operating assistance from the Federal level, with the implication that the benefits of operating assistance trickle down to lower income classes in any direct proportion to the amount of funding that has been provided, the $9 billion in operating subsidies since the mid-1970's, I think is flimflam in and of itself.

If the purpose and the justification for the program are to provide subsidies to transit dependent people, I would suggest a user side subsidy program where those subsidies are provided directly to those users. If people are transit-dependent, we ought to provide them directly with the subsidies. In the Food Stamp Program, we do not give operating subsidies to General Foods and hope that it will result in lower cost of food products. The way those operating subsidies have been distributed indicates that the result over the last 10 years since it was adopted at the Federal level has not necessarily been lower fares and better service for lower income transit users. I think anybody who takes an objective analysis of this program cannot conclude otherwise.

Senator CHILES. Well, I think that is entirely different from what you put in your public statement. If you had wanted to put out your philosophy that way, I would say that can be an expression of your philosophy, but I think when you put the statement in here the way you did that only one out of seven of the people that are using the transit system need that subsidy, I think that is entirely misleading. For example, when you see that in Dade County, their figures show that 51 percent of the riders have incomes under $10,000. Now, that is not based on some census data. That is based on a study that they have actually made. I would assume that it is something like that in New York. I do not know what it would be there, but it just seems to me this is not the way to put facts out on the table.

Mr. STANLEY. Well, I apologize for the confusion in the statement. That was an attempt to show——

Senator CHILES. Mr. Chairman, I am sorry I interrupted your questioning.

EQUITABLE BUDGET CUTS

Senator D'AMATO. Let me attempt to finish my statement as it relates to why I believe that the cuts that have been sought and the elimination of operating assistance for some of our other programs is particularly unfair.

If since 1981 other areas of the Government have been holding the line and indeed have been reducing the total dollars being expended, as has been the case in the Surface Transportation Act, in the case of operating assistance, you recall the battle that we had that resulted in the compromise act, the Surface Transportation Act of 1982 wherein the larger properties took a 20-percent cut for operating assistance, those with populations of 1 million or less, 10 percent in the smaller, 50,000 or less, 5 percent, if we had had that kind of application of budget allocations of resources across the board or in more other areas, other areas of our Government activity, why, we would not have this problem that we face today with the $200 billion deficit. We would not

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be looking to make additional cuts in an area that can only compound the problem of the working middle class families of those with incomes of $20,000 and under, with those of $10,000 and under.

And so that is why this Senator, recognizing the need for budget constraints, says that I think we have to more evenly distribute these cuts, that it is a political expedient to take it out simply on surface transportation, operating assistance, that I accuse David Stockman of regularly. He should be the recipient of that criticism because he uses a very divisive technique of putting the large metropolitan areas that are certainly in the minority of this country, that rely on surface transportation, and then uses that as the catalyst to attack because the other States and regions do not have, and talks about the wasteful spending, et cetera.

Now, indeed, when we go back in the history of Federal subsidization and making available to mass transit dollars, there were areas where there were very dramatic increases given to the labor force, et cetera. But I suggest that a careful study, an up-to-date study since 1980, since the late 1970's, would demonstrate that in terms of increases of salaries for those who operate these systems have held down, that there has been much better contribution from local jurisdictions to the operation. There have been much greater contributions from the local taxing authorities, and of course, that is one of the things that I think we have to seek here in metro Washington, a greater increase from the taxing authorities and from the farebox. You just do not look to Uncle Sam. But that is why I find it difficult if not impossible to support the kinds of proposed cuts that have been put forth year after year by the Budget Office of OMB.

So I am not asking for a response. I just think it is important that I put that on the record. I generally deal with Mr. Stockman on that, but I do not even debate with him anymore on this. He is just absolutely against mass transportation and moving people, and I guess if he had it his way, he would close down anything that did not pay for itself and would not have the Government spending anything on any programs that affect people in a beneficial way. Now, that may be a tough statement, but given the flimflam that he has put forth continually and regularly, I find it very difficult to accept those statements. Now, Senator Chiles, I know you have further questions.

REPROGRAMMING REQUEST

Senator CHILES. Thank you, Mr. Chairman. I understand that some of the questions that I was very interested in have been asked. My understanding is, Mr. Stanley, you said you are not prepared to tell us today who the winners and the losers are under your reprogramming. When will we have that information?

Mr. STANLEY. I indicated earlier that I would try to have that reprogramming request up before the end of this month.

Senator CHILES. Before the end of this month. Well, you know, you can understand from our standpoint, we feel like we are entitled to see that information as we are working on the budget and trying to determine——

Mr. STANLEY. I understand that completely, and I will try and do that earlier if I can.

Senator CHILES. Why is that taking so long?

Mr. STANLEY. Part of it is that we are withdrawing from this program. As you know, the 1986 budget calls for no new starts. In withdrawing from the multitude of projects, we are contemplating which should be reprogrammed and which should not. We are attempting not to leave projects half started, or to leave projects where there is not any local funding to replace the Federal funds and the project would be half finished. That is a real world problem that I am currently experiencing in Detroit. It is that kind of experience I do not want to subject any of the cities to. It is a project-by-project analysis similar to what we went through in 1981, in terms of withdrawing from this program.

Senator CHILES. But you are now saying by the end of this month.

Mr. STANLEY. Yes.

MIAMI METRORAIL RIDERSHIP

Senator CHILES. On April 4, President Reagan spoke to the National Association of County Officials, and he made the following comments considering the Dade County metrorail system. He said, and I am quoting now, "The mass transit Federal subsidy is another headshaker. In Miami, the $1 billion subsidy helped build a system that serves less than 10,000 daily riders. That comes to $100,000 a passenger. It would have been a lot cheaper to buy everyone a limousine."

Mr. Stanley, that statement caused a great deal of stir in Miami, and I have heard from the mayor and the county commissioners and other community leaders. They have told me that it is totally unfair to make all the first-day riders pay for the system when it is going to last 40 or 50 years. They have also told me that ridership is 16,000 a day now and growing by about 5 percent a month. Did you supply the President with that gag line on Miami?

Mr. STANLEY. The data on Miami which we supplied to OMB, was in turn put in their Gray Book, and then it crept into the President's remarks. This was done in December, and the ridership figures at the time were accurate. Four stations had not opened. At the time, if you really wanted to sit and look at the numbers, while daily ridership, which I have tracked on a daily basis in Miami, did get up at the 15,000 passenger level. The average ridership from May 1 since that system opened was on the order of 10,000 to 11,000.

With regard to the cost, you would have amended the figure to say that per passenger it is about $65,000 to $75,000. The ridership in the Miami system will probably not exceed, even with the opening of the stations in May.

Senator CHILES. Well, do you think that is a fair characterization of a system where only the southern half is open, where the people mover is not open, where there were four stations not open at the time, that that is?

Mr. STANLEY. I think it is a fair characterization in that the system ridership projections that were given by the county commissioners in congressional testimony in which I participated, constantly cited a figure of 200,000 for the whole system, and constantly cited a figure in the excess of 100,000 for the segment that has been opened to date.

MIAMI METRORAIL RIDERSHIP ASSUMPTIONS

The ridership assumptions that were given to Congress and to UMTA were promoted locally but were not valid. It has not been a surprise to us at UMTA certainly that the ridership results, whether 10,000 or 15,000 a day, are disappointing. They are not going to grow anywhere near what the anticipated projections were when they were published locally back in the late 1970's.

Senator CHILES. Well, you know that they were, of course, anticipating about $3-a-gallon gasoline and tremendous parking rates in the 1970's because we were in an energy crisis.

Mr. STANLEY. Yes; and there were three assumptions in that study, the $4 gasoline, free parking, and a 50-cent fare. If you read that ridership study, that was the only one chosen by local officials to go public with. That is unfortunate because I think in the Miami system there has been a great deal of credibility lost by the county commissioners in promoting those kinds of ridership figures given the assumptions that underlay them. What would we do if there were not $4-a-gallon gasoline, what would we do to pay for the operating subsidy if we could not afford free parking, which did not materialize, or if we could not afford a 50-cent fare, which did not materialize. These things were not given the level of attention they should have been. There is no financial obligation from us, and there never has been, to complete that entire system. There is, I think, a question of separating the merits of a system like that from the funding reality of what the Federal Government committed to and did not commit to.

MIAMI METRORAIL COMPLETE FUNDING

That is one of the things that concerns me most often, and in Miami in particular. A Miami paper wrote an editorial subsequent to the President's comments and indicated that the Federal Government had a moral contract with Miami to finish that whole system. It is hard for me, given the competition for these funds, to give any real financial reality to a moral contract. There are not funds to finish that system.

The funds for the people mover, even those that have been presented to date, are not adequate to finish that part of the system. The financial reality in Dade County is that there is going to be a major and significant need for the county and/or the State, which currently provides no operating assistance to help operate the system just for what has been built.

Senator D'AMATO. I am wondering if Senator Chiles would not give Senator Kasten an opportunity to ask one brief question.

Senator CHILES. Go ahead.

Senator KASTEN. I am involved in the Defense Appropriations Committee which is going on at this time. I simply would like to ask unanimous consent to submit a couple of questions for the record. Thank you, Mr. Chairman.

Senator D'AMATO. Without objection.

NEW START CITIES-FINANCIAL PLANNING

Senator CHILES. You know, of course, that Dade County is talking about two assessment districts in which they are trying to set up provision for additional local funding.

Mr. STANLEY. My understanding, Senator, is that those assessment districts, and I may be incorrect, are being set up in order to provide the minimal match for a 75 percent-25 percent grant. The bigger issue is the operating cost of that and the bus system that has been expanded in Dade County. My concern in city after city that I go to is that financial planning to help pay the operating costs which, even if we froze our budget at the 1985 level, does not get addressed locally until it has reached a crisis.

One of the reasons I have been as adamant as I have been about getting that funding in place in advance is I have been living through a crisis in Detroit in which UMTA does not have the money, Detroit does not have the money, and the State does not have the money to finish a project that is half complete. There is not any basis for funding to operate the system once it is done, and that has caused a major crisis in downtown Detroit.

My question is if you separate the merits in any kind of system to come up with criteria, what we leave behind on a number of these systems are major financial operating obligations in the locality or in the region. The likelihood of a tax in Dade County at the present time or when it is needed, is not very likely. The likelihood of a tax in the Washington area to pay the level of operating subsidy that will be needed when this system is complete is also something that has been a political unlikelihood for the last decade. You cannot postpone that decision year in and year out and continue to construct the system because there is a local expectation which is very real, and very valid. Every time I go to these cities, I hear that the Federal Government built this project, so do you not feel an obligation to pay whatever operating subsidy is necessary to operate it? I think that is a valid statement from any of these localities, and the answer is we do not have the funds to operate it. You do not have a choice anymore in a place like Dade County but to go out with a major tax initiative which cannot fail. It has to succeed or the system will not be able to operate.

FEDERAL CAPITAL ASSISTANCE

Senator CHILES. Well, I think what we are talking about in operating funds certainly is a question and a valid one, but what we are talking about in capital construction is also a question which the Federal Government has in the past assumed a share and now, in the direction which you are now trying to take, you are saying we are going to pull the rug out from under that share.

Mr. STANLEY. That is correct. I was called from Miami about 3 weeks ago and was told that the county commissioners had a presentation in which they projected how they were going to get $587 million to complete the Miami metrorail system from the Federal Government. If I add that up with what Los Angeles anticipates, with what Buffalo wants for its extensions, Baltimore, Atlanta, Houston, which is going to be in here shortly with a major expansion, St. Louis for its project, Jacksonville for its people mover, Detroit for a Woodward light rail line in that city, even if we kept the funding at current levels, the funds are not going to be there. It is unfair in my view to allow a number of these localities to go ahead planning on that scale of Federal capital assistance which is not going to be available, in any way near the levels that they are anticipating. The actions in a number of these cities fail to address coming up with local funding. Those areas do not publicize the directions from this subcommittee and the encouragement from UMTA to come up with local funding to the extent they do to get the initial funding with the theory that the Federal Government must then complete the project. That is exactly what is going on in Detroit right now. We are facing a public policy decision there to finish a project that should not have been started. The only real valid reason to do it is because it would be more costly not to finish it, but there is not enough money to do it.

Senator CHILES. I understand you have another question. Do you want to go ahead?

NEW JERSEY BUS PURCHASE

Senator LAUTENBERG. Thank you, Mr. Shifting Chairman. That is a terrible description. Mr. Stanley, you are aware of my concern about the bus purchase, some 400, in New Jersey. We discussed it in my office, and you know that this approval has been awaited for some 6 months since October of last year. The delay results in considerable inconvenience, based on the equipment that is available on particular lines.

When we met earlier this week you suggested that you were going to go ahead with a proposal to New Jersey which would allow for an immediate open purchase of 177 buses.

Have you taken any steps to sit down or talk to the folks in the DOT up there?

Mr. STANLEY. I was incorrect when we spoke, the number is 157. I have talked about that proposal with John Sheridan, the Transportation Commissioner, and asked him to come to Washington next week to discuss that particular proposal.

I had not read the letter from John Sheridan at the time I met with you in your office. Just to clear it for the record, of the 410 buses, 103 are buses that would be purchased with fiscal year 1986 funds. Only about 39 of them are buses that would be purchased directly with UMTA funds. The rest, as I indicated, have been approved by us.

Senator LAUTENBERG. We spoke to Sheridan I think yesterday, and he was not aware of the proposal for the 157, 177, whatever. He has been invited to come down and chat?

Mr. STANLEY. Yes; you spoke with him before I had a chance but I did speak to him late that afternoon.

Senator LAUTENBERG. So he is going to come down and you are going to—the proposal that you are going to make is the number of buses available to be apportioned as our transit agency sees it.

Mr. STANLEY. Yes.

Senator LAUTENBERG. That is between private carriers and the State transit agency.

Mr. STANLEY. Yes.

Senator LAUTENBERG. Now, that is——

Mr. STANLEY. We would need an apportionment plan for those buses.

Senator LAUTENBERG. I am sorry?

Mr. STANLEY. We would need an apportionment plan for those buses from New Jersey Transit.

Senator LAUTENBERG. OK, but it is fair to say that you are going to be stepping back, I think, from the position that you took earlier that you would approve the purchase of 200 buses if they were—the rounding here does not matter, whether it is 207 or 200—if all of the equipment was to go to private carriers.

Mr. STANLEY. That is correct. Their original allocation plan was to split the buses among private and public. We agreed to approve the private portion of that, which was rejected.

Senator LAUTENBERG. Right, and they rejected that. And the reason for their rejection was so that they felt that they had to make decisions within the State about how the distribution might be made.

Mr. STANLEY. Well, yes. The distribution that we approved, 50 percent to the privates and 50 percent to New Jersey Transit was not dictated by us. Their application called for that breakdown of the distribution.

Senator LAUTENBERG. And you were funding one part of it.

Mr. STANLEY. We agreed to approve the first one-half of that application for that distribution.

Senator LAUTENBERG. Partial approval.

Mr. STANLEY. Yes.

USE OF PRIVATE CARRIERS

Senator LAUTENBERG. OK. I have been told, Mr. Stanley, by successful private carriers that mass transit as we know it, bus in particular, could not exist without Federal subsidy, and pure privatization is not a realistic goal, and would have very serious consequences for those at the lower end of the economic ladder.

We both know in conversations with a very skilled private bus company operator that they said that they would go into the cities, provided—they would take all routes provided that they were treated no less well by subsidy than the public carriers, is that correct?

Mr. **Stanley**. Yes; I would say it depends very clearly on the route and the carrier. Private carriers have stated that some of the routes may entail a capital subsidy in terms of vehicles purchased, but they could operate those routes much cheaper than they are currently being operated by the public agencies.

In New Jersey, in particular, I have correspondence on specific routes where they feel private operation would cost a great deal less than New Jersey Transit service does currently. If New Jersey were to consider private operation, it could reduce the subsidy required for that route by the amount of savings realized. There is no benefit to New Jersey Transit to contract out if there is no net savings. But I think there is much more opportunity than New Jersey Transit has looked at for that kind of activity.

Senator **Lautenberg**. And what we are doing then is kind of ironing out the policy battles with the tools that are most frequently available, and that is the funding. I do not want to delude you that I am going to sit by quietly. We have had our discussions, and I listened carefully to your viewpoint, but I do not want the policy battle settled at the expense of my constituency. The place for the budget fight is in the Congress and not in my State.

Again, I urge you to sit down with Sheridan, with New Jersey, deal with the issues at hand, and try to resolve them as quickly as possible. Let's let the policy fights be worked out among us where I think they rightfully belong.

NEW JERSEY TRANSIT BUS PURCHASE

Mr. **Stanley**. I agree with you, Senator. If I could just make two observations. Forgetting our differing views with New Jersey Transit on the extent to which private operators should be involved, any major bus allocation or purchase of that size we would review in and of itself. One of the concerns in New Jersey Transit is that the buses being purchased are to replace buses that are currently in their spare fleet. They have got a fairly high spare ratio of 27 percent in excess of their peak operating capacity. Those questions on the purchase would be asked of any property, even if they contracted out all of their service.

The second issue that goes a little bit beyond policy is that the frustrations at least of the private operators in New Jersey have now resulted in a lawsuit based on 3(e)/8(e) of the UMTA Act. There are serious concerns that two or three of the specific concerns of those private operators violate Federal law. They have been unjustifiably competing with private operators. So in several instances, it goes a little bit beyond our differing views on policy.

I hope we can settle it amicably. I am confident we can. But that lawsuit has raised some serious questions, particularly on the Atlantic City purchase, and the questions of competition.

Senator **Lautenberg**. I think in the interests of closing down here, that it is appropriate to say that, frankly, I would rather see as much private service as we can get, if we are assured that the citizens of the State, the people in the communities, have reliable service. That is I think the mission, as well, of the State. We are talking of New Jersey Transit as well, and I will be checking on what you suggest is the simply building up a spare fleet. I want to see if those ratios are viewed the same way as you view them.

We are going to be adjourning, and again with this encouragement that I give you, Mr. Stanley. You know I have respect for the job you are trying to do. I just do not like the program you want to put into effect. And get together as quickly as possible with New Jersey Transit, and we will be awaiting the reports that you have committed to.

PREPARED STATEMENT AND SUBMITTED QUESTIONS

I have a question from Senator Bentsen. I guess what we should do is submit them for the record, and you will, I am sure, respond.

We have a hearing scheduled on the 24th here on the Coast Guard at 10 o'clock, same room, in this building. We have other record questions that we would like answered, Mr. Stanley, from Senators Andrews, Hatfield, Weicker, Abdnor, Kasten, D'Amato, and Chiles, and will include a statement for the record from Senator Weicker.

[The statement and the questions, which were not asked at the hearing but were submitted for response for the record, follow:]

STATEMENT OF SENATOR LOWELL P. WEICKER, JR.

I would like to thank Senator Andrews and all of the members of the Appropriations Subcommittee on Transportation for the opportunity to participate in today's hearing.

It seems I have been fighting the mass transit battle for as long as I have been in Congress. Time and time again I have introduced legislation and amendments to ensure adequate capital and operating assistance for mass transportation. I have continually argued that our Nation has created one of the greatest highway systems in the world at the expense of a strong commitment to railroads and mass transit.

On March 26 of this year, I introduced a bill to increase the tax on gasoline and diesel fuel by 10 cents a year over the next 3 years. In addition to contributing toward reducing the deficit, I believe this tax will encourage greater use of our mass transit systems and reestablish a much needed energy conservation ethic in this country.

The proposed budget cuts to the Urban Mass Transportation Administration, however, will make it extremely difficult, if not impossible, for States and localities to develop and maintain effective, energy efficient mass transit systems as real alternatives to automobile travel. I strongly believe that it is in our national interest to encourage and promote the development of mass transportation systems and I will oppose any budget cuts which undermine our efforts to develop and maintain these systems.

QUESTIONS SUBMITTED BY SENATOR ANDREWS

SECRETARY'S TESTIMONY

SENATOR ANDREWS: The Secretary indicated that this reprogramming would be directed to completing full funding contracts in Portland, Santa Clara and Detroit as well as an operable segment in Jacksonville. She further stated that "we are looking also I believe at Houston and Atlanta". Do you intend to commit those funds to Jacksonville, Houston and Atlanta not required for full funding contracts? If so which specific projects would be funded? Why were these projects selected over other projects? Were UMTA's new start criteria used? If UMTA designates funds for these projects, how does it plan to accommodate overruns?

ANSWER: We are currently completing the analysis required for our reprogramming request which will address the details of which projects would be funded and the basis for the decisions.

DISCRETIONARY CAPITAL TRUST FUND

SENATOR ANDREWS: Of the funds made available in the 1985 Appropriations Bill, $130 million for Bus purposes, $422.5 million for New Starts, $487.5 million for Rail Modernization, $50 million for Planning and $25 million for the Elderly and Handicapped -- how much has been released so far? To whom, in what areas and when were these funds made available?

ANSWER: The following table details the amount, recipient and date the funds were released for the categories listed above.

(As of April 18, 1985)

PROGRAM	RECIPIENT (GRANTEE)	AMOUNT RELEASED	DATE RELEASED
Rail Modernization	Boston (MBTA)	$12,325,950	3-14-85
	Pittsburgh (PAT)	23,024,720	1-11-85
	New Orleans (RTA)	2,403,843	1-14-85
	Subtotal	37,754,513	
Elderly & Handicapped	Delaware	166,957	3-28-85
	North Carolina	257,880	3-19-85
	Ohio	936,000	3-19-85
	Kansas	333,028	3-1-85
	Missouri	696,616	1-23-85
	Nebraska	265,000	1-23-85
	N. Dakota	186,920	1-23-85
	S. Dakota	189,920	1-22-85
	Idaho	229,901	1-31-85
	Florida	373,252	3-21-85
	Subtotal	$ 3,634,554	

Planning	Fitchburg, MA.	20,000	1-10-85
	Indianapolis, IN.	83,400	2-28-85
	Milwaukee, WI.	553,000	1-10-85
	State of WI.	269,352	1-17-85
	Houston, TX.	875,000	3-07-85
	Kansas City, MO.	350,000	1-11-85
	Fargo, ND	20,000	10-31-84
	Provo, UT	11,900	1-03-85
	Daytona Beach, FL	99,000	4-04-85
	Atlanta, GA	569,548	4-10-85
	Subtotal	2,851,200	
	Total	44,240,267	

SENATOR ANDREWS: During the UMTA's deliberations with the Office of Management and Budget (OMB) a document titled 1986 Budget Passback was widely circulated. Are you familiar with that document?

ANSWER: Yes. We are very familiar with the OMB Passback.

SENATOR ANDREWS: The 1986 Budget Passback stated . . ."No further new commitments for new starts (be made) effective immediately," and "1985 new start funds will be used to honor current full funding contracts and letters of intent." Is UMTA following that OMB directive? If so, why?

ANSWER: The UMTA Budget Submission to Congress for FY 1986 does propose that no funding be appropriated for new start projects. The OMB passback was but one of many steps in our negotiation process. Our intent is to utilize available new starts funding from fiscal years 1984 and 1985 as responsibly as possible to complete committed projects of operable segments and possibly consider funding other projects that can be funded within existing resources. To do otherwise would result in the partial funding of projects or "holes in the ground." It would also maintain the expectation of further Federal funding to complete the projects which simply should not be the case when the Federal deficit is projected to exceed $200 billion in FY 1986. Not only will these projects cost the Federal Government billions of dollars more to construct, but once completed they will require millions of dollars more in public subsidies to operate each year. This is UMTA policy, which we wholeheartedly support.

SENATOR ANDREWS: Whose directives is UMTA following, OMB's or Congress?

ANSWER: UMTA is properly complying with all laws and procedures concerning its handling of New Starts funding as well as other programs.

SENATOR ANDREWS: Where is UMTA's transmittal to Congress that it does not intend to follow congressional directives?

ANSWER: Once final decisions are made concerning New Starts funding, UMTA plans to submit a reprogramming action to Congress to request the reallocation of funds.

SENATOR ANDREWS: What is UMTA's latest estimate on the distribution of the $487.5 million Rail Modernization funds? Who will receive these funds, in what amounts, for what purposes and when?

ANSWER: A total of $37.8 million in Rail Modernization funds have been distributed to date. They were allocated on the basis of prior commitment or criticality of the project. The allocation of the remaining $449.7 million will be made once eligible UZA's have finalized their respective Section 9 formula programs and UMTA can effectively target Rail Modernization funds to the highest priority projects requiring additional funds.

SENATOR ANDREWS: What is UMTA's latest estimate of the distribution of the $130 million in Bus and Bus Facilities funds? Who will receive these funds, in what amounts, for what purposes and when?

ANSWER: Available FY 1985 funds ($130.0 million) will be allocated once eligible UZA's have finalized their respective Section 9 formula programs and UMTA can effectively target funds to the highest priority projects requiring additional funds for completion.

SENATOR ANDREWS: Provide the same information for the planning funds of $50 million, the elderly and handicapped funds of $25 million and the innovative techniques and technology introduction funds of $5 million.

ANSWER: Of the $50 million in planning funds, $45 million were allocated to the States and MPOs on February 5, 1985.

Of the remaining $5 million, over $3.2 million have been set aside to fund Construction Management contracts which are now in our internal procurement process, and another $524,000 have been transferred to undertake special studies in Orlando, Florida ($350,000); Dallas, Texas ($75,000); and $99,000 to fund an MBE study by the Florida NAACP.

Of the $50 million, only $1.28 million, or 2.56 percent, remain uncommitted. These funds will be used by the end of this Fiscal Year, for special studies purposes. We have not determined the recipients for these funds as yet.

The FY 1985 Section 16(b)(2) funds were allocated by formula to all the States on October 25, 1984. Attached is the FY 1985 apportionment and the FY 1984 unobligated balance for each State. These funds are distributed by each State to approximately 1150 private non-profit organizations. The funds are used to purchase capital equipment, primarily vans and small buses, to provide transportation services for elderly and handicapped persons. As of April 16, 1985, $7,772,925 million has been obligated for FY 1985 grant requests from 15 States. We anticipate the full $32.58 million in FY 1985 funds and FY 1984 carryover funds to be obligated by September 30, 1985. If any funds remain unobligated by a State at the end of the fiscal year, these would be redistributed by formula with next year's apportionment.

FISCAL YEAR 1985 DISTRIBUTION OF ELDERLY AND HANDICAPPED FUNDS

[Actual dollars]

STATE	FY 1984 BALANCE	FY 1985 ALLOCATION	TOTAL AVAILABLE IN FY 1985
REGION I			
CONNECTICUT	2	376,577	376,579
MAINE	4	222,813	222,817
MASSACHUSETTS	3	636,406	636,409
NEW HAMPSHIRE	0	195,540	195,540
RHODE ISLAND	147,619	214,361	361,980
VERMONT	2	165,471	165,473
TOTAL	147,630	1,811,168	1,958,798
REGION II			
NEW JERSEY	2	734,560	734,562
NEW YORK	0	1,480,000	1,480,000
VIRGIN ISLANDS	133,000	133,000	266,000
TOTAL	133,002	2,347,560	2,480,562
REGION III			
DELAWARE	1	166,956	166,957
DISTRICT OF COL.	0	109,000	109,000
MARYLAND	0	411,140	411,140
PENNSYLVANIA	270,573	1,193,631	1,464,204
VIRGINIA	0	510,000	510,000
WEST VIRGINIA	321,000	321,000	642,000
TOTAL	591,574	2,711,735	3,303,309
REGION IV			
ALABAMA	0	510,000	510,000
FLORIDA	373,255	1,293,289	1,666,544
GEORGIA	0	585,000	585,000
KENTUCKY	491,000	491,000	982,000
MISSISSIPPI	434,000	434,000	868,000
NORTH CAROLINA	336,300	624,000	960,300
SOUTH CAROLINA	0	377,000	377,000
TENNESSEE	0	548,000	548,000
PUERTO RICO	89,792	605,000	694,792
TOTAL	1,724,347	5,467,289	7,191,636
REGION V			
ILLINOIS	1,020,000	1,020,189	2,040,189
INDIANA	0	520,072	520,072
MICHIGAN	0	794,000	794,000
MINNESOTA	448,005	451,168	899,173
OHIO	953,000	953,000	1,906,000
WISCONSIN	44,779	507,326	552,105
TOTAL	2,473,784	4,256,355	6,742,339
REGION VI			
ARKANSAS	4,510	377,000	381,510
LOUISIANA	0	520,000	520,000
NEW MEXICO	136,240	208,492	344,732
OKLAHOMA	0	416,000	416,000
TEXAS	177,030	1,189,000	1,366,030
TOTAL	317,030	2,710,492	3,036,362
REGION VII			
IOWA	0	388,566	388,566
KANSAS	0	333,029	333,029
MISSOURI	111,516	585,000	696,516
NEBRASKA	265,000	265,000	530,000
TOTAL	376,516	1,571,595	1,948,111
REGION VIII			
COLORADO	1	299,053	299,054
MONTANA	3	182,778	182,781
NORTH DAKOTA	8,200	178,721	186,921
SOUTH DAKOTA	189,000	189,000	378,000
UTAH	0	281,000	281,000
WYOMING	1,039	150,215	151,254
TOTAL	198,243	1,196,813	1,395,056
REGION IX			
ARIZONA	2	343,194	343,196
CALIFORNIA	0	1,851,428	1,851,428
HAWAII	178,652	179,177	357,829
NEVADA	1	171,673	171,674
AMERICAN SAMOA	50,602	50,608	101,210
GUAM	0	131,000	131,000
NORTHERN MARIANAS	50,315	50,318	100,633
TOTAL	279,572	2,777,398	3,056,970
REGION X			
ALASKA	61,412	134,172	195,584
IDAHO	43,709	189,761	233,470
OREGON	1,584	333,623	335,207
WASHINGTON	0	425,126	425,126
TOTAL	106,705	1,082,682	1,189,387
GRAND TOTAL	6,331,363	26,226,325	32,566,692

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UNOBLIGATED BALANCES

SENATOR ANDREWS: How do you expect Congress to accommodate your proposed program changes if you don't provide in a timely fashion the information necessary to make an informed opinion?

ANSWER: The problems of UMTA's historical financial recordkeeping system have been well documented in testimony before this committee. For the past several years, we have been auditing our historical financial records to verify the accuracy of the data that we are loading into the new Financial Management System. This verification process was just recently completed. In order to provide this committee with accurate answers to their questions, a number of labor-intensive reconciliations were performed by the UMTA staff on micro-computers. We are now in a position to provide a great deal of financial information on a regular, timely basis.

SENATOR ANDREWS: If two-thirds of the unused funds are in urbanized areas under a million, why doesn't the Administration propose a change in the formula that distributes the funds?

ANSWER: We believe that given the significance of the other changes in the UMTA program being proposed at this time that it is not appropriate to also propose a change in the formula. The Department has proposed more service-based formulas in the past but they were not accepted.

SENATOR ANDREWS: The Committee understands that UMTA will propose the use of Section 9A formula for distributing formula capital grants and not the Section 9 formula now used for distributing grant funds? What is the advantage of using the 9A formula? What is the disadvantage of using the existing Section 9 formula?

ANSWER: The FY 1986 Budget proposed calls for using the Section 9A formula to distribute capital funds. This formula was used in 1983 to distribute the new Mass Transit Account funds for capital purposes only.

The only difference between the Section 9 and Section 9A formulas is that the Section 9 formula includes an incentive tier in both the bus and fixed guideway tiers. The incentive tiers use passenger miles squared over operating costs as the distribution factor. This rewards properties providing the most mobility and those providing it for the lowest unit cost. Because this formula addresses these operational factors, it is more appropriate for distribution of funds which can be used for operating assistance. For a capital-only program, it is less important to reward efficient operation than to have a formula which can allocate resources based on factors, as in the remainder of the formula, which bear a relationship to the amount of service provided and hence capital needs.

In addition, the passenger-miles factor has been one of the most difficult data items in the Section 15 system to collect and verify. A recent audit by the Department of Transportation Inspector General has highlighted this problem and recommends eliminating use of the passenger miles factor in the formula.

NEW STARTS - STATUS

SENATOR ANDREWS: Please provide for the record a list of all proposed new start projects, including stage (under construction, final design, preliminary engineering, alternatives analysis, proposed), corridor, length, estimated total cost, total Federal funds obligated, Federal funds required for completion and expected date for a decision on moving to the next stage.

ANSWER: The requested information is provided in the following table entitled Section 3 New Start Project Pipeline.

SECTION 3 NEW START
PROJECT PIPELINE

Area	Corridor	Length (Mi.)	Est. Total Cost (Inflated $ in Millions)	Section 3 Funds Obligated	Est. Section 3 Cost to Complete (Inflated $ in Millions)	Est. Date to Complete this Phase
Under Construction a/						
1. Atlanta	North/South	17.4	1050	249.0	$ 228	1988
2. Baltimore	Northwest (Section B)	6.2	180	8.8	0 a/	07/87
3. Detroit	Downtown (CATS)	1.9	200	104.7	5	10/86
4. Jacksonville	Downtown (ASE)	0.7	30	17.0	0	1988
5. Miami	Downtown - Metromover	2.9	165	66.1	0	03/86
6. Portland	Banfield	15.0	290	58.2	35 c/	07/86
7. Sacramento	Northeast (I-80) Folsom	18.3	160	0	0 c/	10/86 (Phase I) 04/87 (Phase II)
8. San Jose	Guadalupe	21	400	59.8	145	12/87
	Subtotal				$ 413	
Final Design						
1. Los Angeles	Wilshire	18.6	3300	175	$ 2,000	FY 85
		8.8	(2100)	(175)	(1,300)	FY 85
		4.4	(1175)	(175)	(430)	FY 85
2. Washington	Green Line	17.2	2100	0	1,100 d/	FY 90
	Yellow Line	7.0	270	0	100 d/	FY 88
	Red Line	1.8	310	0	250 d/	FY 88
	Subtotal				$ 3,450	
Preliminary Engineering						
1. Chicago	Southwest	9.3	495	0	$ 0 c/	12/85
2. Detroit	Woodward	15. 0	1400	6.7	1,100	----
3. Houston	NW Busway	13.5	100	5.5	45	05/85
4. Jacksonville	Auto Skyway	1.8	100	0	75	----
5. Miami	DPM Extensions	2.0	200	0	150	FY 87
6. Portland	Westside	15.5	240	0	175	FY 86
7. St. Louis	Airport	18.0	250	2.0	250	09/86
8. Seattle	Downtown	1.3	395	1.5	195	06/85
	Subtotal				$ 1,990	

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Alternatives Analysis b/

1. Baltimore	Northeast	1.3	335	0	$ 29 c/	Complete
2. Boston	Orange Line Rep.	2.0	30	0	25	09/85
3. Cleveland	Dual Hub	5.6	900	0	400	FY 87
4. Columbus	North	6.6	80	0	60	09/85
5. Houston	SW Busway	9.5	100	0	55	07/85
6. Miami	Northeast/Airport	10-20	2000	1	1,500	not started
7. Milwaukee	Northwest	17.0	160	0	120	FY 86
8. Minneapolis	SW/University	24.5	250	0	200	08/85
9. New York	Queens Bypass	0.1	360	0	270	04/85
10. San Diego	East Urban	11.1	85	0	40	04/85
11. San Juan	Byamon Cresent	14.9	900	0	700	not started
12. San Francisco	N. Concord	2.6	400	0	300	not started
	Subtotal				$ 3,699	
GRANT TOTAL (Estimated Section 3 Cost to Complete)					$ 9,552	

System Planning Studies

In addition to the projects noted above, at least 25 cities are considering fixed guideway transit projects as part of their ongoing system planning studies. The potential funding demand from these projects is difficult to estimate, given the preliminary nature of the cost analyses performed in system planning and the wide range of investment alternatives being discussed. Moreover, many of these projects may not be advanced in the forseeable future. If all of these projects were advanced, however, it is reasonable to expect a Section 3 funding demand in excess of $10 billion.

FOOTNOTES:

a. Cost to complete does not include pending claims for extraordinary costs in projects funded with full funding contracts (Miami, Buffalo, and Baltimore).

b. In some cases, alternatives anlaysis cost estimates are rough approximations of potential costs. More reliable estimates based upon conceptual engineering become available toward the end of the alternatives analysis phase.

c. Additional funding to be provided under the Interstate Transfer program.

d. Additional funding to be provided under Stark-Harris.

SENATOR ANDREWS: Is it possible for a grantee to move to the next stage of the project (from final design to construction, for example) without UMTA approval? What types of activities are permitted in each stage? (Define the stages.)

ANSWER: UMTA's Major Capital Investment Policy defines four general phases for developing major transit investments prior to actual construction: system planning, alternatives analysis, preliminary engineering, and final design. During system planning, local officials examine long range urban development trends and problems, collect travel data, forecast needs, and evaluate regionwide transportation policies, programs, and investment options. If one or more corridors may require a major capital investment, local officials rank them in order to priority and identify a small set of potentially cost-effective alternatives for more detailed study. Alternatives analysis, the second phase, involves the detailed analysis of the most promising alternatives in the region's priority corridor. A draft environmental impact statement is usually prepared, following which local officials hold a public hearing and select their preferred alternative. During the third phase, or preliminary engineering, the project is advanced to the 30 percent design stage, taking into consideration all reasonable design alternatives. Preliminary engineering results in estimates of project costs, patronage and impacts which have a high confidence level, and a Final Environmental Impact Statement is usually issued. Final design, the last phase of project development prior to construction, involves the acquisition of right-of-way, utility relocation, and the preparation of final construction plans including construction management plans, detailed specifications, engineering cost estimates, and bid documents. The full funding contract is normally executed during this phase.

Specific approval by the UMTA Administrator is required before a project may advance from one phase to the next. UMTA has established a series of threshold tests to guide decisions on advancing projects into alternatives analysis and preliminary engineering. Decisions to advance projects into final design are made pursuant to UMTA's new start rating system.

SENATOR ANDREWS: Is UMTA currently considering any requests to permit projects to move to the next stage? If so, what projects?

ANSWER: UMTA is presently considering four such requests. Houston has requested approval to advance the Northwest Corridor Transitway into final design. Baltimore is seeking UMTA approval to undertake preliminary engineering for the Northeast Corridor rail extension. Requests to perform alternatives analysis in Boston (South Shore) and Pinellas County, Florida are also under review. We also expect Chicago (Southwest Transit Project) and Seattle (Downtown Bus Tunnel) to shortly complete their final environmental impact statements and request UMTA approval to proceed with final design.

SENATOR ANDREWS: Does UMTA notify any Congressional Committees of such changes? Would you do so in the future?

ANSWER: UMTA employs two formal mechanisms to notify the Congress of changes in the status of major investment proposals. Under the Major Capital Investment Policy, projects are rated during the first quarter of each fiscal year. The Congress is then informed as to which projects have completed alternatives analysis, which have completed preliminary engineering, and their ratings. In addition, pursuant to Section 3(E)(4) of the UMT Act, UMTA notifies the Congress of the proposed issuance of any letters of intent. The letter of intent is normally used to authorize the initiation of final design.

Several informal mechanisms are used as well. At the conclusion of alternatives analysis, a draft environmental impact statement (EIS) is prepared and a notice of its availability along with a public hearing date and request for comments are published in the Federal Register. After the hearing the local agency prepares a preferred alternative report which is submitted to UMTA. The report, the EIS, and our threshold criteria serve as the basis for a decision on whether the project is sufficiently meritorious for advancment into preliminary engineering. Near the end of preliminary engineering, a Final EIS is prepared and a notice of its availability is again published in the Federal Register.

We feel that these steps along with the local public participation process provide adequate notice for interested parties. As previously mentioned, official committee involvement occurs when UMTA submits a proposed letter of intent to the Congress for review. However, UMTA staff does occassionally meet with committee staff to discuss these and other projects and UMTA also provides information about the projects in our annual Congressional budget submissions.

SENATOR ANDREWS: In the opening statement, it is alleged that Congressional earmarking has the potential to result in an unfunded liability of at least $3.5 to $4.0 billion. How did you arrive at this estimate?

ANSWER: The estimate represents the Federal funding that would be required, beyond fiscal year 1985, to complete all of the earmarked projects. The following table illustrates that the unfunded cost of these projects could easily exceed $4 billion.

UNFUNDED FEDERAL LIABILITY FOR CONGRESSIONALLY EARMARKED NEW STARTS 1/
(Dollars in Millions)

City/Project	Total Cost	Sec. 3 Share	Sec. 3 Obligations	Unobligated Earmarks	Unfunded Sec. 3 Liability
1. Atlanta (Phases B-2,C)	$1,053	$ 454	$131	$ 95	$ 228
2. Houston					
(NW Busway)	105	50	6	35	9
(SW Busway)	100	50	0	0	50
3. Jacksonville (Skyway)	135 2/	100 2/	17	2	81 2/
4. Los Angeles (Metrorail)	3,300	$2,131	145	129	1,857
5. Miami					
(Metrorail Stage 2)	2,000 2/	1,500 2/	1	72 3/	1,577
(Metromover Ext.)	200 2/	150 2/	0		
6. St. Louis (Airport LRT)	250 4/	250	2	10	238
7. San Diego (East Urban LRT)	85	40	0	11	29
8. Seattle (Bus Tunnel)	395	197	2	20	175
GRAND TOTAL	$7,623	$4,922	$304	$374	$4,244

1/ Does not include the Portland Banfield project, the Detroit CATS project or the San Clara Guadalupe project for which letters of intent were issued or the Buffalo LRT project which is under a full funding contract.

2/ Preliminary estimate

3/ Funds earmarked for both Metrorail and Metromover. Allocation between these projects as yet undetermined.

4/ Plus local in-kind contribution.

SENATOR ANDREWS: Isn't UMTA attributing system costs to Congressional earmarking that would be costs also incurred under UMTA's distribution of new start funds? That is, is the $3.5 to $4.0 billion an estimate of strictly Congressionally generated costs or is it the total costs associated with all systems previously provided funds by Congress?

ANSWER: We estimate that at least $4 billion of Section 3 funds would be required to complete the eight Congressionally earmarked projects for which letters of intent have not been issued. Under UMTA's process for distributing new start funds, the letter of intent process effectively prevents UMTA from advancing projects to construction when there are not sufficient authorizations to complete an operable segment.

SENATOR ANDREWS: In arriving at the $3.5 to $4.0 billion figure did UMTA assume just the segments identified by Congress or did it also include all possible segments and stations that were ever discussed or contemplated for a system and not necessarily approved or earmarked by Congress?

ANSWER: The Congress did not, in all cases, clearly identify the segments covered by the earmarks. Consequently, UMTA's estimate reflects our understanding as to how the local transit agencies intend to use the earmarked funds. The estimate does not include all possible segments or stations for a system. It does include, however, completion of the 18.6 mile Metrorail project in Los Angeles and both the Northeast and West Metrorail lines in Miami.

SENATOR ANDREWS: For the record provide the Committee with a detailed breakdown of the estimate including cities, segments assumed and not assumed, funds provided to date, constrution covered by those funds, stations assumed and not assumed, estimated dates for the need for these funds by segment and those costs directly attributable to Congressional earmarking and not the responsiblity of UMTA.

ANSWER: The following table, New Start Costs Directly Attributable to Congressional Earmarking, provides the detailed breakdown.

NEW START COSTS DIRECTLY ATTRIBUTABLE TO CONGRESSIONALLY EARMARKING

	City	Segments Assumed	Section 3 Funds Obligated (million $)	Construction Covered by Obligated Funds	Schedule for Completing Assumed Segment	Costs Attributable to Earmarking (million $)
1.	Atlanta	Completion of Phases B-2 and C (East Point to Airport, Brookhaven to Doraville)	$ 131	West End to Oakland City	1985-1988	$ 95
2.	Houston	Northwest Transitway (FM 1960 to Northwest Transit Center)	6	None	1985-1986	50
		Southwest Transitway (West Bellfort Avenue to Buffalo Speedway)	0	None	1986-1987	55
3.	Jacksonville	Automated Skyway (Florida Junior College to St. John's Place wtih spur from Terminal to Central)	17	Terminal to Central	Unknown	100
4.	Los Angeles	Metrorail (Union Station to North Hollywood)	145	None	1985-1990	2000
5.	Miami	Metrorail Stage 2 (Palmetto Expressway to NW 192nd St. with spur to Airport)	1	None	Unknown	1500

City	Segments Assumed	Section 3 Funds Obligated (million $)	Construction Covered by Obligated Funds	Schedule for Completing Assumed Segment	Costs Attributable to Earmarking (million $)
	Metromover Extensions (Omni and Brickell Extensions)	0	None	1987-1990	150
6. Portland	Banfield LRT (As defined in full funding contract)	58	Partial construction of entire project	1983-1986	0*
7. St. Louis	Airport LRT (East St. Louis to Airport)	2	None	1986-1990	250
8. San Diego	East Urban Line (Euclid to El Cajon)	0	None	1985-1987	40
9. Santa Clara	Guadalupe LRT (As defined in full funding contract)	60	Partial construction of entire project	1984-1987	0*
10. Seattle	Downtown Bus Tunnel	2	None	1986-1990	197
	GRAND TOTAL				$ 4437

* Normal project development process followed with issuance of a letter of intent and execution of a full funding contract.

SENATOR ANDREWS: What are the 50 projects currently in the pipeline or under construction cited in the prepared statement? List each city, description of the project and estimated costs to generate the Federal share of over $18 billion. Where are these projects in the pipeline? Which ones are under construction? Which ones are under serious consideration by UMTA?

ANSWER: The following table, Section 3 New Starts Project Pipeline, lists 30 projects currently under construction or in final design, preliminary engineering, and alternatives analysis. At least 25 cities are also considering fixed guideway transit projects as part of their ongoing system planning studies. As shown in the table, completion of the 31 listed projects would require an estimated $9.5 billion in Section 3 funds. Projects in system planning could involve an additional $10 billion or more.

UMTA gives serious consideraion to those projects that have advanced to the final design and preliminary engineering phases. These are the projects included in UMTA's annual ratings, and are the most likely candidates for capital funding in the forthcoming budget cycle.

(CLERK'S NOTE.--The table referred to appears with the answer to a previous question under this heading (New Starts-Status).)

SENATOR ANDREWS: The original budget request eliminated the Section 9 general fund program which funds both operating and capital expenses. The latest Senate Leadership/White House agreement continues this program albeit at reduced levels. Did the Urban Mass Transportation Administration (UMTA) participate in these negotiations? If yes, what contribution did the Agency make to the negotiations? Which proposal best reflects the Agency's desired 1986 funding level?

ANSWER: The Urban Mass Transportation Administration did not participate directly in the White House/Senate Leadership negotiations, but, we did provid substantial input to OMB and the White House.

The Administration, including UMTA, is now committed to the funding levels proposed in the White House/Senate Leadership compromise. However, as I noted earlier, this compromise is acceptable only as part of the total government-wide compromise package. If the compromise package is altered, for example, for defense or social security, then the transit portion may be jeopardized. If so, then UMTA would reaffirm the funding levels requested in our FY 1986 Budget Submission.

SENATOR ANDREWS: Other than the reduced funding levels for operating and capital programs under Section 9, what other programs are affected by this agreement?

ANSWER: The FY 1986 appropriation for Washington Metro, Administrative Expenses, and Research, Training and Human Resources each would be reduced by roughly 25 percent relative to the FY 1985 level. The Interstate Transfer Grants - Transit program would be funded from the Federal-Aid Highways Trust Fund. Transferring funding of the Interstate Transfer Grants - Transit program back to the

Highway Trust Fund would save about $250 million a year in appropriations derived from general revenues.

SENATOR ANDREWS: Is the Department still requesting reduced administrative funds, no funding for Research and Training, and transfer of the Interstate Substitution program?

ANSWER: The Department supports the White House/Senate Leadership Compromise as long as it remains intact. Otherwise, we would continue to support our original FY 1986 Budget Submission to Congress. As I noted before, the White House/Senate Leadership compromise returns funding of the Interstate Transfer Grants - Transit program to the Highway Trust Fund, the same was proposed in our FY 1986 Budget Submission to Congress.

SENATOR ANDREWS: In announcing the latest agreement, it was stated that Mass Transit operating assistance would be phased out over five years. Does the capital assistance under Section 9 also get phased out over five years?

ANSWER: The White House/Senate Leadership compromise would phase down capital assistance over a three year period to $1.7 billion in FY 1988; $0.6 billion in general funds from Section 9 and $1.1 billion from the Mass Transit Account of the Highway Trust Fund.

SENATOR ANDREWS: What does the agency now believe is the proper level for the Section 9 program for capital?

ANSWER: Obviously there are transit facilities and equipment out there that will need to be replaced or modernized, or possibly even expanded, but you need to be very careful about interpreting the concept of the "proper" level of Section 9 capital.

Our proposed level of $1.1 billion in capital assistance is sufficient to assist in meeting legitimate capital replacement and expansion needs--but localities have to hold up more of their end of this partnership by having a higher stake in the investment cost, by being able to carry the cost of operating the system, by doing better financial planning and giving transit sufficient priority in State and local budgets.

We believe that it is likely that the level of Federal funds available, together with small increases in the use of local funds, should permit continued bus purchases adequate to provide appropriate service levels. If services are reduced, it will not be because of a constraint related to the number of buses available. The total number of buses ordered using UMTA funds has declined in recent years from an average of about 4,000 per year to less than 2,500 in FY 1984 despite increases in the availability of UMTA funds. The amount still available would be more than adequate to continue purchasing this number of buses.

This Administration is concerned with the condition of the older rail systems as well as with the condition of mass transit in general. Part of that concern is that State and local governments are not bearing the primary responsibility for meeting mass transit needs.

Through ongoing oversight and management of projects funded under the Federal trust, we will continue to encourage that State and local governments make the most efficient and responsible use of the Federal assistance available. These funds will help support a significant amount of continuing activity. Thus, the reduced funding will not be felt for some time during which these prior year resources will have had a major effect on dealing with the problems of the rail systems.

The older integrated systems that include both rail and bus service will receive close to 50 percent ($500 million) of the FY 1986 funding under the new Formula Capital Grants program.

SENATOR ANDREWS: In the original budget request for Fiscal Year 1986, UMTA proposed a 27 percent reduction in staffing. This cut was predicated on the termination of selected mass transit programs. Under the latest "agreement" the Section 9 program was not terminated -- does this means there is a need for a higher staff and funding level for administration? If not, why not? If yes, how much more than the original request?

ANSWER: Although the "agreement" does not include termination of the Section 9 program, we do not believe there will be a need for a higher staff and funding level over our originally proposed level. We believe that the actual FY 1986 full-time equivalent cut represents a 25% reduction in staffing. This reduction coincides with the proposed 23% reduction in UMTA's program resulting from the "agreement". Additionally, we hope that our continual effort to find opportunities to contract out tasks to the private sector and to improve internal management controls will enable UMTA to effectively operate with a reduced staff. Furthermore, our renewed emphasis on FY 1986 on project management rather than project development activities will require fewer staff.

SENATE BUDGET COMMITTEE

SENATOR ANDREWS: The Senate Budget Committee reported resolution proposes a 25 percent reduction for each of UMTA"s line items from administration to the capital trust fund. Has your agency done an analysis on the affects of that budget proposal? If not, could you tell us now whether the Budget Committee's proposal is feasible?

ANSWER: UMTA has not done an analyis of the Senate Budget Committee's "25 percent across-the-board" proposal. However, a simple 25 percent across-the-board cut in each UMTA account is not the answer. Certain accounts, such as the trust fund, can only have a lid placed on their obligations. These resources would simply accumulate and would not be expended for the purpose it was collected. Other general funded programs, such as Discretionary Grants and Interstate Transfer Grants-Transit, should be eliminated. I believe we need, to target cuts in UMTA's programs but we believe the UMTA budget is capable of being reduced at least 25 percent.

SENATOR ANDREWS: That budget recommends an administrative expense level of $23.25 million, is that feasible? If not, why not?

ANSWER: The current FY 1986 administrative expense budget of $26.81 million, which reflects a proposed reduction of 160 personnel, can only be accomplished by closing all UMTA regional offices and transferring those functions to UMTA headquarters offices, with the likelihood that such an arrangement may be insufficient to effectively discharge the agency mission. Therefore, while an administrative expense level of $23.25 million is feasible, it would require even further reductions of $3.56 million of UMTA resources, which would seriously effect the capability of the agency to provide basic services. The proposed $23.25 million level could not be achieved without eliminating necessary employee training and space rearrangements, and substantially reducing communications, utilities, ADP working capital funds and support services. Reductions in some of these categories, such as communications and utilities, may not even be controllable at the agency level.

SENATOR ANDREWS: The existing Section 3 capital discretionary grants obligation ceiling is reduced to $840 million, is that good policy?

ANSWER: The $840 million you speak of represents application of a 25 percent cut across-the-board, as proposed by the Senate Budget Committee. We do not believe a simple 25 percent across-the-board cut in each UMTA account is the answer. Certain accounts, such as the trust fund can only have a lid placed on the obligations, thus the resource would simply accumulate and would not be expended for the purpose it was collected. Other general funded programs, such as Discretionary Grants and Interstate Transfer Grants - Transit, should be eliminated. I believe we need to target cuts in UMTA's programs. We believe the UMTA budget is capable of being reduced at least 25 percent.

SENATOR ANDREWS: What would the effect of reduced capital spending be? If this level were passed in what areas would the agency suggest the cuts? (new starts, rail modernization, buses).

ANSWER: We believe that reduced funding levels can still be adequate to fund legitimate transit capital needs. Reductions should focus on eliminating discretionary, earmarked funding for new start projects. By eliminating operating assistance as well, the remainder of a 25 percent cut could be made up with only a very small reduction in total capital spending on bus and rail modernization needs.

SENATOR ANDREWS: Does the Department feel that an obligation ceiling less than the fully authorized amount jeopardizes original promises made regarding this fund? If yes, why? If not, why not?

ANSWER: Cutting the trust fund account would only place a lid on obligations against it. Thus, the resources would simply accumulate and would not be expended for the purpose it was collected. The cuts should be targeted at general funded programs.

SENATOR ANDREWS: A 25 percent reduction in funding for the Interstate Transfer Grants Program results in a funding level of $187.5 million. The Administration proposes the merger of this program with the Highway Trust Fund. What level of obligation would be reached in this program if the merger were made?

ANSWER: In FY 1986 the Administration's proposal would have both transit and highway substitute projects funded from the Highway Trust Fund. While the FY 1986 obligation level would be $725 million for both highway and transit, the total authorization level for interstate substitution would not change and all projects will eventually be funded. Year-to-year funding decisions would give priority to projects currently under construction, those in an advanced state of construction readiness, and so forth.

SENATOR ANDREWS: If $187.5 million were made available under the existing structure, how much of the new funding would be obligated?

ANSWER: Based on a recent survey of the UMTA Regional Offices, there would be over $300 million in demand in FY 1986. Therefore, it is expected that all of the $187.5 million would be obligated.

SENATOR ANDREWS: The Washington Metropolitan Area Transit Authority (WMATA) system's Stark-Harris funds would also be reduced to $187.5 million. What affect would this have on WMATA's plans? Does this lower funding level violate any agreements with WMATA or promises made by UMTA to Washington Metro's management? Does delayed/reduced funding jeopardize completion of the 89.5 mile system?

ANSWER: A lower funding level, such as $187.5 million, should not delay completion of the 76-mile system presently under construction. The lower funding level does not violate any existing UMTA/WMATA agreements since we have only begun negotiations with WMATA to reach agreement on construction and Federal funding beyond the present DOT commitment to 76-miles.

PROPOSED LEGISLATION

SENATOR ANDREWS: To date, the Committee has not seen the legislation necessary to enact the programmatic changes assumed in your budget request (specifically making the trust fund a formula grant program). Where is that legislation?

ANSWER: We expect to submit this legislation in the very near future. It is now being reviewed by the Office of the Secretary and the Office of Management and Budget.

SENATOR ANDREWS: Authorizing legislation that affects spending in the following fiscal year is supposed to be reported by authorizing committees May 15. Will all of UMTA's necessary legislation be provided to Congress to enable the authorizing committee to meet that deadline, and allow necessary time for perusal, debate and committee mark up?

ANSWER: We expect to be submitting legislation for FY 1986 and for FY 1987-90 in the very near future, in time for Congressional action.

SENATOR ANDREWS: UMTA originally proposed no operating assistance, yet the latest agreement with the White House proposed limiting operating assistance to $700 million. Is UMTA asking this Committee to enact the limitation on operating assistance? If so, provide the necessary appropriations language for the record.

ANSWER: If the White House/Leadership Compromise is enacted as it stands, then such a limitation would be required. Of course, if the package is modified, then the transit compromise it includes could be jeopardized.

The White House/Leadership Compromise calls for combining gas tax and general revenue funds into a single formula program, in addition to the reduction in operating assistance. If authorizing legislation along these lines is not passed in time, the following appropriations language would be needed to accomplish this reduction through a 20 percent cut in operating assistance across-the-board:

> Provided that amounts apportioned for operating assistance may not exceed 80 percentum of the amounts authorized under 49 U.S.C. 1607a(k)(2).

SENATOR ANDREWS: UMTA proposes the funding of the transit Interstate Transfer program from the Highway Trust Fund. There is no increased funding to accommodate the change. Of the $725 million available, how much would be used for the transit substitute program?

ANSWER: The exact highway-transit split in any given year will be subject to local decisions. However, all currently planned transit projects can eventually be accommodated by the program, provided local officials still want to implement them.

SENATOR ANDREWS: In defending the transfer, the Administration states that "enactment of this proposal would mean all substitute projects would be funded no later than by Fiscal Year 1992, rather than by Fiscal Year 1991". In answer to a committee inquiry last year (pg 733 of the hearing) UMTA stated that a constant funding level of $250 million, transit substitute projects would be completely funded by FY 1989. Does the proposed legislation delay this completion for three fiscal years? If yes, why is this acceptable? If not, please explain?

ANSWER: Local officials would determine the rate at which transit substitute projects would be funded. It is conceivable that local officials would continue to fund the transit substitute projects at the $250 million level and thus adhere to the FY 1989 completion date. However, if local official decide to fund transit substitute projects at a lower or higher rate the schedule would be correspondingly altered.

SENATOR ANDREWS: What funding level did you originally estimate for this program for fiscal years 1986 through 1991?

ANSWER: Our assumed annual funding rate was $250 million, just as I testified last year.

The remaining balance of Interstate Transfer Grants-Transit entitlements is about $1.1 billion. At a $250 million appropriation level, the $1.1 billion in entitlements would be exhausted in about 4-1/2 years; that is, by the middle of 1990 or by 1991.

SENATOR ANDREWS: Assuming the transfer, what are the new obligation levels assumed for this program for Fiscal Years 1986 through 1991?

ANSWER: The Administration assumes that the proposed FY 1986 thrugh FY 1991 annual funding level of $725 million for Interstate Substitute projects would be fully obligated during the year of each appropriation.

SENATOR ANDREWS: How would the transit substitute program level be determined once it is under the Highway Trust Fund? How would the split between highway and transit be determined? Please elaborate. How would the 25 percent of Discretionary Funds be allocated? Would highways and transit each receive some of the Discretionary funds based on their formula ratio? Could all the Discretionary funds go for one program over the other?

ANSWER: Under the Administration's proposal there would not be a transit substitute program level, but rather a joint transit-highway program level. Assuming the discretionary portion of the program is not fully earmarked by Congress, as it was last year, discretionary decisions would be made on the basis of whatever projects, highway or transit, are ready to be approved (i.e. in construction, ready to begin construction, etc.). However, it must be noted that all projects will eventually be funded, be they highway or transit.

SENATOR ANDREWS: Based on current estimates of cost to complete both highway substitute projects and the transit substitute projects approximately 84 percent of the total is for highways. Would UMTA find it acceptable if approximately $116 million (16 percent of $725 million) per year went for transit Interstate Transfers?

ANSWER: This proportional funding approach would not have a relationship with individual project schedules. Local officials would be in a better position to determine the amount of their annual apportionments to use for transit substitute projects.

REPORTS OWED

SENATOR ANDREWS: Last year the Committee asked UMTA to update the status of requested reports on Rail Modernization needs and the Cost-Effectiveness of the Washington, D.C. Metrorail. UMTA responsed by saying the Rail Modernization study would be completed in Late 1984 (pg. 733) and the Metrorail Study (pg. 734) after the court injunction is lifted on the green line. Where do these two requested reports stand? When can the Committee expect to receive these reports? The UMTA letter of March 19, 1985, explained the delay on the Rail Modernization Study but did not give an estimated completion date. Is there a draft report available for Committee perusal?

ANSWER: We are expecting our contractor, Gannett Fleming Transportation Engineers, Inc., to complete the engineering phase of the Rail Modernization study shortly (i.e. draft report by the end of April...completed engineering phase report 30-60 days later.)

Then we plan a follow-on task to develop a broader context for this information before sending it along to Congress. We want some inclusion of cost-benefit analysis of proposed rail modernization projects, as well as evaluations of alternative courses of action a grantee might consider before beginning a ten year investment effort in restoring all existing rail lines.

We believe such a broader context to amplify the engineering information more closely responds to the purposes of the original congressional mandate for the Study. Now we expect a final report in early 1986.

With respect to the WMATA study we have drafted a report evaluating the unbuilt WMATA segments according to our rarking system. The report will be transmitted to the Congress as soon as soon as it has been reviewed within the Department. The initial findings of the study indicate that the Acacostia to Branch Avenue segment is cost effective and competes well against projects from other cities, the U Street to Greenbelt segment is marginally cost effective and does not compete well, and that both the Wheaton to Glenmont and the King Street to Franconia segments have excessive costs compared to ridership and, therefore, would not compete well.

SENATOR ANDREWS: In the conference report accompanying the fiscal year 1985 funding bill, the Office of the Secretary was asked to provide by March 1, 1985, a report on revenue vs. operating cost ratios for transit systems. Where is that report? When will the Committee receive that report? Has UMTA participation in that report been completed?

ANSWER: The report has been completed and transmitted by the Secretary on April 22, 1984. UMTA cooperated in all phases of the study and concurred in the final report.

SENATOR ANDREWS: Another report on UMTA's unified bonding program was due to the Committee on April 15. Where is that report? When can the Committee expect to receive its report?

ANSWER: A draft of that report is currently under review, and the Department expects that the Committee will receive the report within the next few weeks.

AMERICAN PUBLIC TRANSIT ASSOCIATION STUDIES

SENATOR ANDREWS: In the prepared statement, UMTA challenges the American Public Transit Association's (APTA's) claims regarding the Administration's budget. Have you seen the APTA survey upon which APTA's conclusions are based? If not, have you asked APTA for a copy of the survey? When will the Committee receive a copy of the UMTA report which documents the impact of the Administration's budget? In summary, what are your findings? When did UMTA conduct its survey on the effects of the budget cut? Has the report been distributed to the public?

ANSWER: Following issuance of the APTA press release in early February, UMTA requested (both informally and formally) copies of the survey instrument, a list of the properties surveyed, the responses and the complete APTA analysis on which the press release was based. As of the date of this Hearing (April 18), APTA had still not provided this information.

Upon issuance of the APTA press release, containing claims of possibly extreme adverse effects from the proposed budget reductions, UMTA initiated an internal review of the situation in the quoted cities to ensure that we understand the local perspective and had not overlooked potentially harmful effects. Between mid-February and mid-March, the UMTA regional staffs made local contacts to appraise the prospective situation in the sixteen (16) cities quoted in the press release and in other major urban areas. Since then, UMTA has continued to collect data relevant to judging the potential impact of the budget reduction and the reasonableness of local claims concerning such impacts.

The results of this activity have not been consolidated into any single comprehensive report, but the current analysis and findings with respect to overall impacts and the specifically quoted cities are as follows:

Service: In total, Federal subsidies represent only 10 percent of operating costs, so at worst only a 10 percent cut in service would be required (for individual urban areas this ranges from 6 percent to over 40 percent). Many areas operate unproductive service that ought to be cut back or turned over to private operators. In no way will our proposal make shutdown "an imminent possibility" or result in "massive service cuts";

Fares: Overall, transit users pay about 38 percent of operating costs, so the total Federal subsidy amounts to about 1/4 of fare revenues. Our best estimate is that fares would have to increase less than 5 percent after a reasonable mix of cost savings and increased State or local support;

Ridership: Selective service pruning and increasing fare revenues by cost-based fares could be implemented without any loss in ridership. To put transit ridership in perspective, only one (1) out of seventeen (17) workers regularly uses transit to get to work (this is about 6 million people per day), transit carries only 3 percent of total urban travel, and most transit users have middle or upper incomes (91 percent for work trip users and about 77 percent for all transit trips);

Capital maintenance: Our proposed level of $1.1 billion in capital assistance is sufficient to assist in meeting legitimate capital replacement and expansion needs--but localities have to hold up more of their end of this partnership by having a higher stake in the investment cost, by being able to carry the cost of operating the system, by doing better financial planning and giving transit sufficient priority in State and local budgets; and

Employment: Estimates assume that none of the Federal subsidy is made up from increased State or local subsidy; in any event, reducing the need to borrow or tax to fund the Federal deficit would leave the same amount of money in the private sector to spend or invest--generating just about the same number of jobs and business revenues and increasing the overall efficiency of the economy.

The sixteen (16) cities quoted in the APTA press release are:

Chicago, Illinois
Pittsburgh, Pennsylvania

Boston, Massachusetts
Dayton, Ohio
Des Moines, Iowa
Flint, Michigan
Jackson, Mississippi
Greenville, South Carolina
Utica, New York
New Castle, Indiana
Knoxville, Tennessee
Salem, Oregon
Buffalo, New York
Providence, Rhode Island
Hampton/Newport News, Virginia
Towanda, Pennsylvania

Following is UMTA's assessment of the possible impact of the proposed budget in these areas and how they could compensate for loss of Federal operating assistance.

Chicago, Illinois

Quote: "The total elimination of Federal transit subsidies which is, as reported by the press, under consideration by the Reagan Administration would have devastating consequences for the City of Chicago."

"Transit service in Chicago could quickly face a shutdown crisis."

UMTA Response: This statement attributed to Chicago is a gross exaggeration. Federal operating subsidies amount to only 6 percent of Chicago's operating expenses. Options for handling program reductions include:

- increasing fares 13 percent or 15 cents from 90 cents to $1.05;
- increase local and State revenue 14 percent or $58,000,000; or
- reduce service 6 percent

The city supplies no capital funds for transit and could do more. The Chicago system has $366 million in unliquidated obligations and is planning on spending $500 million on a subway extension to Midway Airport. The State projects a $217 million surplus in FY 1985 and provides no operating subsidies to Chicago. Chicago's $59 million in operating assistance is only 0.7 percent of Illinois 1983 State budget of $8.5 billion.

A recent study by Professor Pickrell of Harvard found that, since Federal operating assistance began in 1975, real compensation per worker has increased by 22 percent.

Pittsburgh, Pennsylvania

Quote: "...the loss of federal operating assistance could be devastating to PAT, the community and the local economy."

"If this proposed eliminiation occurs, these sorely needed projects and purchases will not happen and PAT would be forced to close most of its operating system."

UMTA Response: Federal transit operating subsidies in Pittsburgh constitute only 7 percent of PAT's operating budget. Loss of Federal assistance could be compensated for by any of the following:

- increasing fares 14 percent or 15 cents to $1.15;
- increasing local or State revenue 16 percent or $10 million; or
- reducing service 7 percent.

Pennsylvania is expecting a surplus of $188 in FY 1985 and the Governor is proposing a $140 million income tax cut. The State's total Federal operating assistance ($82 million) represents only 1.1 percent of the State budget.

Boston, Massachusetts

Quote: "Boston is more dependent that ever on the MBTA. Development has continued with 100,000 more office workers commuting to the downtown area, with less and less parking space available."

"Boston has no alternative to the MBTA for moving its workforce to and from work."

UMTA Response: The proposed Federal budget cuts would not undermine Boston's MBTA, as is claimed. The Federal contribution is only 7 percent of operating costs. Riders contribute only 31 percent. The Federal contribution could be made up by any one of the following:

- a 22 percent fare increase;
- a 7 percent service reduction; or
- an 11 percent increase in State/local support.

Moreover, a projected State surplus of $144 million in 1985 could easily offset the Federal cuts. The total Federal operating subsidy in the State ($38.5 million) could be covered by a 0.8 percent increase in the State budget.

Dayton, Ohio

Quote: "The combination of increased fares, service cutbacks and deferred maintenance which would be necessary to offset the elimination of capital and operating assistance, would likely reintroduce the downward spiral of ridership and revenues that led to the failure of the private operator."

UMTA Response: In Dayton, Ohio, fares cover only 23 percent of cost and Ohio's subsidy to the Dayton system is less than 2/3 of the Federal subsidy. The City of Dayton recorded a

$15 million surplus in FY 1984 and is expecting a $20 million surplus in FY 1985. The State is projecting a surplus of $122 million in FY 1985. Reasonable fare levels, along with increased city and State subsidies, could easily offset the proposed Federal cuts. The entire Federal operating subsidy contribution in the State could be covered by less than a 1/2 percent (0.487 percent) increase in the State budget.

Des Moines, Iowa

Quote: "The situation in Des Moines is becoming critical. Since FY '81, federal operating assistance has shrunk from 33% to 19% of the MTA's operating budget. We have done what we can to keep farebox revenues in the area of 38-40% of our budget. Subsidies from supporting cities have more than doubled in the last five (5) years.... The funny thing is that we, in Des Moines, are in better shape than many of Iowa's 33 transit systems. At a recent Iowa Public Transit Association (IPTA) meeting, one operator commented that next year's meeting may only consist of representatives from three (3) transit systems - the rest will have gone bottom up."

UMTA Response: Des Moines is predicting doom for their own system and forecasting demise of other Iowa transit systems. However, the City of Des Moines is expecting a $571 thousand surplus in FY 1986. The State, which provides only 3.2 percent of Des Moines' transit funds, is expecting a $10 million year-end surplus for FY 1985. Surely, these sources could help relieve the Des Moines transit system. The entire $5.3 million in Federal operating assistance in Iowa could be covered by less than a 1/2 percent (0.29 percent) increase in the State's $2 billion budget.

Flint, Michigan

Quote: "Without federal operating assistance, public transit in Flint, Michigan will not survive. Even under the most optimistic alternative local funding would not be sufficient to replace the present levels of federal operating assistance."

UMTA Response: The City of Flint subsidizes only $300,000, or 5 percent, of the transit system's operating expenses. Moreover, the farebox only contributes 23 percent of expenses, well below the 38 percent national average. The City of Flint has registered general fund surpluses in the last two (2) fiscal years of about $2 million per year. These surpluses are approximately the amount of Federal operating subsidy Flint receives. Moreover, Flint has available $2.3 million in unobligated funds, equal to 85% of a year's operating cap.

The entire $46 million Federal operating assistance contribution in Michigan could be covered by a one percent increase in the State's $5 billion budget. The State projects a surplus of $427 million for 1985.

Jackson, Mississippi

Quote: "Because of the energy savings, the creation of new jobs and the undergirding of present jobs provided by the transit industry which impacts favorably on the national economy, it is foolish to think that a reduction or elimination of federal transit financial assistance will bring about a reduction in the national deficit."

UMTA Response: Federal assistance of $850,000 amounts to 36 percent of operating expenses. The city currently contributes less than one percent of its budget; and the total Federal contribution in the State ($1.7 million) could be covered by a 1/7 percent (0.142 percent) increase in the State's $1.2 billion budget.

Greenville, South Carolina

Quote: "Local elderly and handicapped persons would suffer the greatest."

UMTA Response: The Federal contribution of $578,000 represents 31 percent of operating costs. The local contribution represents less than one percent of the city's budget. Both the city and County have sizeable surpluses that could contribute to increased transit support if it is a priority activity. The State had a $153 million surplus in 1964; it could cover the entire Federal operating subsidy contribution in the State ($1.2 million) with less than a 1/10 percent increase (0.06 percent) in its $2 billion budget.

The proposed UMTA budget includes a 40% increase in funds specifically assisting the elderly and handicapped (the 16(b)(2) program).

In addition, Greenville has available an unobligated balance of Federal operating assistance funds equal to 284 percent of its annual operating assistance cap.

Utica, New York

Quote: "The poor and elderly, especially inner city residents with low paying jobs will lose the most."

"It would appear that we would really have to contemplate cutting service and/or increasing fares to the point that riding public transit would not be economically or accessibly feasible which would effectively end our city's public mass transit service."

UMTA Response: The Federal contribution of $614,000 represents 26 percent of operating costs. Fares cover only 29 percent of cost, well below the 38 percent national average. The local governmental contribution, at 8 percent, is very low -- leveraging eight Federal and State dollars for each local one.

Increases in fares to match the national average combined with increased local contributions could easily offset the Federal operating subsidies.

State support could also be increased. The entire Federal operating subsidy contributions in the State ($139 million, including the New York Metropolitan Area) could be covered by an increase of less than one percent in the State's $17 billion budget (0.795 percent). In addition, at the end of FY 1984, Utica had unobligated funds available equal to more than one year's Federal contribution (103.7 percent).

New Castle, Indiana

Quote: "In order to maintain current service levels, fares would be increased sixfold."

"An increase in fares large enough to offset the loss of federal assistance would no doubt be catastrophic."

UMTA Response: This is an alarmist and misleading statement. The Federal contribution of $140,000 represents 45 percent of costs. The alledged sixfold increase in farer is a consequence of a fare policy which produces revenues covering only 11 percent of costs. The locality contributes only 18 percent, leveraging four (4) other subsidy dollars for each one its puts up. The State of Indiana recorded a surplus of $102 million in 1984 and it could pick up the entire $31 million Federal operating subsidy contribution in Indiana from less than a 1 percent increase (0.916 percent) in its $2 billion budget. In addition, the State had $2.3 million in unobligated Section 18 funds at the end of FY 1984.

Knoxville, Tennessee

Quote: "Reduction or elimination of needed transportation services would likely take many unskilled workers off the tax roles and put them on the welfare rolls."

"The cost of the 1981/1982 rebuilding of a small stretch of highway widely known as 'malfunction junction' (I-40 and I-75) cost about $150 million. This would pay the federal contribution to K-Trans for nearly a hundred years."

UMTA Response: This is an alarmist statement. The Federal contribution of $1.8 million represents 35 percent of costs. The farebox contributes only 27 percent. Although the city may be near bankrupty because of the 1981 World's Fair, the State had a surplus of $174 million in 1964 and could cover the entire $10 million Federal contribution in the State with a budget increase of about 1/2 percent (0.565 percent). Moreover, at the end of FY 1984, Knoxville had unobligated funds available equal to 1-1/2 times the annual Federal contribution.

Salem, Oregon

Quote: "It will be a battle merely to 'hold on' rather than to attempt to find additional State resources to replace lost Federal funds."

"In other words...we're between a rock and a very hard place."

UMTA Response: The Federal contribution of $615,000 represents 15 percent of operating expenses. The farebox contributes virtually the same amount - 17 percent. Federal assistance could easily be made up by small service reductions and a larger farebox contribution. The State had a $71 million surplus in 1984 and could cover all Federal operating assistance in the State ($10 million) with less than a 1 percent (0.611 percent) increase in its $1.5 billion budget.

Buffalo, New York

Quote: "The proposed cuts in the UMTA program would sound the deathknell for the nation's transit systems, particularly in the areas that do not have the ability to establish a dedicated local revenue source of transit."

UMTA Response: The Federal contribution of $10 million represents 21 percent of operating expenses. The farebox covers 49 percent. Local (County) assistance ($2 million) represents only 4 percent, and leverages 11 dollars in Federal and State support for each local dollar. The State expects a budget surplus of $102 million for 1985 and could cover the entire Federal operating subsidy contribution in the State with less than a one percent increase (0.795%) in the State budget. In addition Buffalo had nearly one year's worth of unobligated funds (80%) available at the end of FY '84.

Providence, Rhode Island

Quote: "The elimination or decrease of federal assistance will be detrimental to the economy and the mobility needs of elderly/handicapped."

"The end result will even effect federal programs with a dramatic increase in people seeking assistance under federal programs."

UMTA Response: The Federal contribution of $6.4 million represents 29 percent of operating costs. The farebox contributes 37 percent. State support could be increased, since the State experienced a $32 million surplus in 1984 and could cover the entire Federal contribution in the State with less than a one percent (0.687%) increase in its $900 million budget. In addition, at the end of FY '84, the area had an unobligated availability of Federal operating assistance funds equal to 116 percent of a year's operating cap.

Hampton/Newport News, Virginia

Quote: "Our system has already been trimmed to eliminate unproductive services. A decrease in funds would further reduce our service levels to a dangerous anorexic state."

UMTA Response: The Federal contribution of $1.6 million represents 26 percent of operating costs. The farebox covers 36%. In 1984, the City of Hampton experienced a $3 million budget surplus and the State projects a surplus of $109 million for 1985. The entire Federal operating subsidy contribution in the State ($162 million) could be covered by a 1/2 percent (0.514%) increase in the State budget. In addition the area had an unobligated balance of Federal funds equal to 42 percent of its annual operating cap at the end of FY '84.

Towanda, Pennsylvania

Quote: "Section 18 fares would increase over the possible affordability of any resident."

"Service would be eliminated."

UMTA Response: The Federal contribution of $22,450 represents 40 percent of costs. The farebox contributes 20 percent. The local government contributes only $6,000 -- 10 percent of cost -- in effect leveraging seven times as much State and Federal subsidy. The State had an unobligated balance of $2.1 million in Federal Section 18 funds available at the end of FY '84. In addition it anticipates a budget surplus of $188 million in 1985 and could cover the entire $82 million Federal operating assistance contribution with only a one percent (1.081%) increase in the $8 billion State budget.

SENATOR ANDREWS: Why did APTA file a Freedom of Information request with UMTA?

ANSWER: The American Public Transit Association requested, under the Freedom of Information Act, records regarding funds that were carried-over, lapsed, and not obligated by region and area. This information has only been recently available due to UMTA's improved accounting system and micro-analysis capability.

TRANSIT SUBSIDY BENEFITS

SENATOR ANDREWS: In the prepared remarks you state that, "Mass transit subsidies in the main, benefit those with middle and upper income." What basis does UMTA have for that statement? Doesn't UMTA's own Section 310 report (page 31) show that 70 percent of transit riders have incomes under $20,000 a year and that forty (40) percent have incomes near the poverty level, i.e., less than $10,000 per year? Provide the Committee with a breakdown of transit riders by income, and source of data. Contrast that data with that provided in the September 1984 Section 310 Report.

ANSWER: Table 2.10 of the Section 310 Report ("The Status of the Nation's Local Public Transportation: Conditions and

Performance," U. S. Department of Transportation, September 1984) reported on transit trips by household income based on a number of local rider surveys completed in 1981 and 1982 and representing approximately 20 percent of transit ridership. Adjusted to reflect inflation between 1981 and 1985, using the GNP deflator, the income distribution of transit is as follows:

Less than $11,560	40.3 percent
$11,560 to $23,120	30.9 percent
$23,120 to $34,678	15.4 percent
Greater than $34,678	13.3 percent

A more complete survey, the 1977 National Personal Transportation Study (NPTS), when adjusted to reflect inflation and interpolated to match income categories, produces the following income distribution of transit users:

Less then $10,000	23 percent
$10,000 to $20,000	28 percent
Over $20,000	49 percent

The current poverty level for a family of four is $10,610. Thus about three-quarters of transit users are above the poverty level about half have incomes above $20,000 per year.

The statement that transit subsidies benefit primarily those with middle and upper incomes is based on the above income distribution and the fact that under prevailing flat fare systems low income riders, who are concentrated on high density, inner-city routes, actually cross-subsidize the more expensive rail service, peak-period services, and long-distance, low density suburban services used almost exclusively by middle and upper income riders.

Also, to keep perspective, of all low income (under $10,000 per year) individuals according to the 1980 Census, only 1 in 7 utilized transit to go to work. It is simply wrong and misleading to justify this Federal program on the fact that low income individuals are the main beneficiaries.

BUSES

SENATOR ANDREWS: Which cities are requesting bus replacement funds for buses after less than ten years old (as stated in prepared remarks, p. 12)?

ANSWER: New York City, San Francisco, and Houston were interested in using UMTA funds to replace Grumman-Flxible buses less than ten years old; however, UMTA declined to participate in these purchases.

SENATOR ANDREWS: What is the acceptable average spare ratio for buses? What cities exceed the UMTA acceptable ratio? Compare these ratios with those operators in the private sector for which you have data. Please list spare ratios for the public operators in all urbanized areas.

ANSWER: Excessive spare ratios represent a significant problem. High ratios represent severe over-capitalization as operators have purchased more vehicles then needed with readily available Federal dollars in an attempt to avoid maintenance costs. Yet, excessive numbers of vehicles actually increase maintenance costs because of the costs of added space, inventory and other maintenance requirements. These excess vehicles are an indication of questionable practices made possible by large amounts of Federal funds. We believe an average spare ratio of approximately 15 percent is acceptable. The national average spare ratio as reported in the CY 1983 Section 15 report was 45 percent. Hence, nearly all operators exceed the recommended value.

Private and public fleet management practices are not directly comparable. Most private operators run both scheduled intercity and charter service and can shift vehicles between these services to balance demands and maintenance needs. Also, these operators typically use the off-peak season, January to March, to perform major maintenance, when demand allow buses to be off the road. Thus, most private operators try to have all their vehicles on the road at peak times. Those private operators which provide urban services, usually express commuter operators, typically have no more than 10 percent spares.

The attached table shows the spare ratios as reported to UMTA and recorded in the CY 1983 Section 15 report.

Spare Ratios by Transit Operator and Mode
For Operators Reporting Under Section 15
Calendar Year 1983

Sec 15 ID	State	System	Mode	Total Revenue Vehicles	Peak Vehicles	Spare Ratio
12	AK	Anchorage-People Mover	MB	73	46.0	58.7%
4042	AL	Brmnghm-Jeffrson Cnty TA	MB	145	77.0	88.3%
4043	AL	Mobile TA	MB	40	31.0	29.0%
4044	AL	Montgomery Area TS	MB	35	27.0	29.6%
6033	AR	Little Rock-Metroplan	MB	72	46.0	56.5%
9032	AZ	City of Phoenix TS	MB	293	211.0	38.9%
9033	AZ	City of Tuscon MTS	MB	159	106.0	50.0%
9021	CA	Los Angeles-SCRTD	MB	2940	1869.0	57.3%
9015	CA	San Francisco-MUNI	MB	526	397.0	32.5%
9015	CA	San Francisco-MUNI	SC	140	82.0	70.7%
9015	CA	San Francisco-MUNI	TB	345	283.0	21.9%
9014	CA	Alameda-Contra Costa TD	MB	901	719.0	25.3%
9036	CA	Orange County TD	MB	526	327.0	60.9%
9013	CA	Santa Clara County TD	MB	758	377.0	101.1%
9019	CA	Sacramento RTD	MB	253	183.0	38.3%
9026	CA	San Diego TS	MB	340	199.0	70.9%
9016	CA	San Fran-Golden Gate TD	MB	279	231.0	20.8%
9016	CA	San Fran-Golden Gate TD	FB	4	3.0	33.3%
9016	CA	San Fran-Golden Gate TD	VP	26	20.0	30.0%
9003	CA	San Francisco-BART	RR	436	314.0	38.9%
9009	CA	San Mateo County District	MB	290	216.0	34.3%
9027	CA	Fresno TS	MB	103	68.0	51.5%
9023	CA	Long Beach PTC	MB	180	119.0	51.3%
9030	CA	N San Diego Transit Dev	MB	129	80.0	61.3%
9031	CA	Riverside Transit Agency	MB	53	37.0	43.2%
9008	CA	Santa Monica Muni Bus	MB	136	89.0	52.8%
9078	CA	Central Contra Costa TS	MB	66	48.0	37.5%
9010	CA	City of Torrance TS	MB	44	25.0	76.0%
9042	CA	Gardena-Municipal Bus	MB	49	29.0	69.0%
9062	CA	Monterey-Salinas Transit	MB	52	33.0	57.6%
9020	CA	Santa Barbara MTD	MB	76	49.0	55.1%
9006	CA	Santa Cruz MTD	MB	93	55.0	69.1%
9012	CA	Stockton MTD	MB	63	33.0	90.9%
9012	CA	Stockton MTD	DR	6	6.0	0.0%
9041	CA	Montebello Muni Bus lines	MB	45	29.0	55.2%
9035	CA	Oxnard-S Coast Area Tran	MB	45	22.0	104.5%
9050	CA	City of Simi Valley TS	MB	9	5.0	80.0%
9039	CA	Culver Cty Muni Bus Lines	MB	20	15.0	33.3%
8006	CO	Denver-RTD	MB	776	553.0	40.3%
8005	CO	Colorado Springs Transit	MB	53	40.0	32.5%
8011	CO	Fort Collins-Transport	MB	17	9.0	88.9%
8007	CO	Pueblo Transportation Co	MB	20	11.0	81.8%
1046	CT	Hartford-Conn Transit	MB	262	211.0	24.2%
1055	CT	New Haven-Conn Transit	MB	126	102.0	23.5%
1050	CT	Greater Bridgeport TD	MB	62	42.0	47.6%
1057	CT	Norwalk TD	MB	25	18.0	38.9%
1056	CT	Stamford-Conn Transit	MB	33	21.0	57.1%
1068	CT	Waterbury-Northeast Trans	MB	33	23.0	43.5%
1042	CT	Derby-Valley Transit	DR	12	9.0	33.3%
1045	CT	New Britain-Dattco, Inc	MB	6	5.0	20.0%
1047	CT	New Britiain Trans	MB	11	8.0	37.5%
1040	CT	Norwich-Southeast Area	MB	24	17.0	41.2%
1041	CT	Westport TD	MB	16	11.0	45.5%
3030	DC	Washington, D.C.-WMATA	MB	1764	1468.0	20.2%
3030	DC	Washington, D.C.-WMATA	RR	293	243.0	20.6%
3031	DE	Wilmington-DART	MB	100	87.0	14.9%
4034	FL	Miami-Dade Cnty TA	MB	622	416.0	49.5%
4029	FL	Ft Lauderdale-Browrd Cnty	MB	173	123.0	40.7%
4041	FL	Hillborough Area RTA	MB	122	100.0	22.0%
4040	FL	Jacksonville TA	MB	222	144.0	54.2%
4040	FL	Jacksonville TA	DR	7	2.0	250.0%
4035	FL	Orlando TCT	MB	63	52.0	21.2%
4037	FL	Pinellas Suncoast TA	MB	66	41.0	61.0%
4039	FL	St Petersburg MTS	MB	66	43.0	53.5%
4036	FL	Tallahassee-TALTRAN	MB	61	33.0	84.8%

Sec 15 ID	State	System	Mode	Total Revenue Vehicles	Peak Vehicles	Spare Ratio
4040	FL	Merritt Is-Consol Agency	DR	29	19.0	52.6%
4038	FL	Pensacola-Escambia	MB	27	17.0	58.8%
4022	GA	Atlanta-MARTA	MB	1023	580.0	76.4%
4022	GA	Atlanta-MARTA	RR	120	68.0	76.5%
4024	GA	Columbus-METRA	MB	50	30.0	66.7%
4025	GA	Savannah TA	MB	60	36.0	66.7%
4023	GA	Augusta TD	MB	30	20.0	50.0%
4058	GA	Rome TD	MB	32	22.0	45.5%
4021	GA	Albany TS	MB	15	7.0	114.3%
4047	GA	Athens TS	MB	16	9.0	77.8%
9002	HI	Honolulu DOT Service	MB	369	333.0	10.8%
7010	IA	Des Moines MTA	MB	100	73.0	37.0%
7008	IA	Cedar Rapids Bus Depart	MB	35	28.0	25.0%
7011	IA	City of Dubuque-Keyline	MB	26	20.0	30.0%
7012	IA	Sioux City TS	MB	25	18.0	38.9%
7013	IA	Waterloo-Black Hawk Cnty	MB	28	19.0	47.4%
11	ID	Boise Urban Stages	MB	27	22.0	22.7%
5066	IL	Chicago-CTA	MB	2295	1905.0	20.5%
5066	IL	Chicago-CTA	RR	1197	881.0	35.9%
5060	IL	Champaign-Urbana MTD	MB	51	34.0	50.0%
5056	IL	Greater Peoria Mass TD	MB	57	44.0	29.5%
5058	IL	Rockford MTD	MB	50	36.0	38.9%
5086	IL	Transit Mgmt of Wst Towns	MB	90	62.0	45.2%
5061	IL	Decatur Public TS	MB	30	19.0	57.9%
5068	IL	Elgin-DOT	MB	30	20.0	50.0%
5057	IL	Rock Island County MTD	MB	32	28.0	14.3%
5059	IL	Springfield MTD	MB	42	33.0	27.3%
5084	IL	Transit Mgmt of Waukegan	MB	32	19.0	68.4%
5063	IL	Auarora Transit	MB	23	16.0	43.8%
5064	IL	Bensenville Dial A Bus	MB	4	2.0	100.0%
5047	IL	Bloomington-Public TS	MB	19	14.0	35.7%
5074	IL	Highland Park Transit	MB	6	4.0	50.0%
5055	IL	Loves Park TS	MB	7	4.0	75.0%
5087	IL	Wilmette Muni Bus System	MB	18	12.0	50.0%
5050	IN	Indianapolis PTC	MB	243	164.0	48.2%
5050	IN	Indianapolis PTC	DR	8	4.0	100.0%
5045	IN	Gary PTC	MB	110	28.0	292.9%
5044	IN	Fort Wayne PTC	MB	85	59.0	44.1%
5052	IN	South Bend PTC	MB	58	43.0	34.9%
5051	IN	Greater Lafayette PTC	MB	22	18.0	22.2%
5053	IN	Terre Haute Transit Util	MB	17	15.0	13.3%
7015	KS	Wichita MTA	MB	65	44.0	47.7%
7014	KS	Topeka MTA	MB	28	22.0	27.3%
7014	KS	Topeka MTA	DR	5	2.0	150.0%
4018	KY	Louisville-TA River City	MB	298	220.0	35.5%
4019	KY	Ft Wright-TA No Kentucky	MB	101	74.0	36.5%
4017	KY	Lexington-LEXTRAN	MB	56	39.0	43.6%
6032	LA	New Orleans RTA	MB	501	363.0	38.0%
6032	LA	New Orleans RTA	SC	35	20.0	75.0%
6022	LA	Baton Rouge-Cap Transp Co	MB	55	43.0	27.9%
6024	LA	Shreveport Area TS	MB	65	46.0	41.3%
6029	LA	Gretna-Westside Transit	MB	34	21.0	61.9%
6021	LA	Harahan-Louisiana Tran Co	MB	40	26.0	53.8%
6023	LA	Lake Charles TS	MB	17	8.0	112.5%
6026	LA	Monroe TS	MB	21	12.0	75.0%
1003	MA	Boston-MBTA	MB	1157	620.0	86.6%
1003	MA	Boston-MBTA	RR	503	277.0	81.6%
1003	MA	Boston-MBTA	SC	229	85.0	169.4%
1003	MA	Boston-MBTA	TB	50	23.0	117.4%
1008	MA	Pioneer Valley TA	MB	149	65.0	129.2%
1073	MA	Boston-Caravan	VP	133	119.0	11.8%
1064	MA	Gr. Attleboro-Taunton RTA	MB	12	9.0	33.3%
1005	MA	Lowell RTA	MB	34	22.0	54.5%
1013	MA	Merrimack Valley TA	MB	24	20.0	20.0%
1006	MA	New Bedford SERTA	MB	88	71.0	23.9%
1014	MA	Worcester RTA	MB	62	52.0	19.2%
3034	MD	Baltimore-MTA	MB	882	665.0	32.6%
3051	MD	Rockville-Ride-On	MB	155	87.0	78.2%
3040	MD	City of Annapolis	MB	12	8.0	50.0%

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3043	MD	Columbia TS	MB	8	4.0	100.0%
3042	MD	Hagerstown-Wash County TC	MB	23	10.0	130.0%
1016	ME	Gr Portland Transit Dist	MB	43	36.0	19.4%
5031	MI	Detroit - SEMTA	MB	1240	775.0	60.0%
5033	MI	Grand Rapids Area TA	MB	103	63.0	63.5%
5029	MI	Bay City-Bay Metro Transp	MB	65	46.0	41.3%
5035	MI	Kalamazoo Metro TS	MB	67	30.0	123.3%
5036	MI	Lansing-Capital Area TA	MB	87	45.0	93.3%
5040	MI	Ypsilanti-Ann Arbor TA	MB	42	34.0	23.5%
5039	MI	Saginaw TS	MB	38	24.0	58.3%
5030	MI	Battle Creek Transit	MB	20	13.0	53.8%
5030	MI	Battle Creek Transit	DR	3	2.0	50.0%
5027	MN	Minneapolis MTC	MB	1044	805.0	29.7%
5027	MN	Minneapolis MTC	DR	52	22.0	136.4%
5025	MN	Duluth TA	MB	94	56.0	67.9%
5028	MN	St Cloud Metro Trans Comm	MB	22	14.0	57.1%
7006	MO	St Louis-Bi-State	MB	890	613.0	45.2%
7005	MO	Kansas City Area TA	MB	316	221.0	43.0%
7003	MO	Springfield City Utility	MB	36	23.0	56.5%
7016	MO	Columbia Area TS	MB	22	13.0	69.2%
4015	MS	Jackson-JATRAN	MB	42	30.0	40.0%
8004	MT	Billings Metro Transit	MB	15	13.0	15.4%
8009	MT	Missoula Urban TD	MB	18	15.0	20.0%
4008	NC	Charlotte TS	MB	145	74.0	95.9%
4007	NC	Raleigh-N.C. Transit Div	MB	58	43.0	34.9%
4012	NC	Winston-Salem TA	MB	64	28.0	128.6%
4005	NC	Asheville TA	MB	30	16.0	87.5%
4051	NC	Chapel Hill Transit	MB	37	23.0	60.9%
4009	NC	Fayetteville Area Transit	MB	26	13.0	100.0%
4011	NC	High Point City TS	MB	17	10.0	70.0%
4006	NC	Wilmington TA	MB	19	9.0	111.1%
7001	NE	Lincoln Transp. System	MB	61	57.0	7.0%
7002	NE	TA of Omaha	MB	195	153.0	27.5%
1002	NH	Manchester TA	MB	33	30.0	10.0%
2080	NJ	Newark-NJT Corp	MB	2345	1537.0	52.6%
2080	NJ	Newark-NJT Corp	SC	26	16.0	62.5%
2075	NJ	Lindenwold-PATCO	RR	121	90.0	34.4%
6019	NM	Albuquerque-Sun-Tran	MB	107	74.0	44.6%
9045	NV	Las Vegas Transit	MB	25	16.0	56.3%
2008	NY	New York CTA	MB	4573	3009.0	52.0%
2028	NY	New York CTA	RR	6217	4880.0	27.4%
2004	NY	Buffalo-Niagara Frontier	MB	473	279.0	69.5%
2007	NY	East Meadow-MSBA	MB	322	263.0	22.4%
2113	NY	Rochester-RTS	MB	241	170.0	41.8%
2079	NY	Yonkers-Liberty Lines	MB	268	208.0	28.8%
2002	NY	Albany-Capital Dist TA	MB	239	178.0	34.3%
2046	NY	Jackson Hgts-Triboro Coach	MB	180	105.0	71.4%
2038	NY	Jamaica-Green Bus Lines	MB	191	152.0	25.7%
2039	NY	New York-Jamaica Bus	MB	152	92.0	65.2%
2043	NY	Queens Transit Corp	MB	247	154.0	60.4%
2045	NY	Steinway Transit Corp.	MB	130	94.0	38.3%
2018	NY	Syracuse-CNY Centro	MB	162	117.0	38.5%
2044	NY	Yonkers-Riverdale Transit	MB	158	80.0	97.5%
2073	NY	Brooklyn-Command Bus Co	MB	95	67.0	41.8%
2003	NY	Broome Cnty Pub Trans	MB	40	36.0	11.1%
2021	NY	Utica TA	MB	44	33.0	33.3%
2109	NY	Yonkers-Airport Transp	MB	34	24.0	41.7%
2041	NY	Yonkers-Pelham Pkwy Bus	MB	40	38.0	5.3%
2071	NY	Huntington Area Rapid	MB	14	10.0	40.0%
2006	NY	Long Beach TA	MB	12	3.0	300.0%
2015	NY	Rome-VIP Transportation	MB	9	4.0	125.0%
2110	NY	Roosevelt Isl Mini-Trans	MB	10	4.0	150.0%
2082	NY	Staten Island Ferry	FB	5	4.0	25.0%
5015	OH	Cleveland RTA	MB	754	542.0	39.1%
5015	OH	Cleveland RTA	RR	70	46.0	52.2%
5015	OH	Cleveland RTA	SC	48	28.0	71.4%
5015	OH	Cleveland RTA	DR	57	22.0	159.1%

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Sec 15 ID	State	System	Mode	Total Revenue Vehicles	Peak Vehicles	Spare Ratio
5012	OH	Cincinnati-SORTA	MB	390	264.0	47.7%
5016	OH	Columbus-Central Ohio TA	MB	323	259.0	24.7%
5010	OH	Akron-Metropolitan RTA	MB	110	82.0	34.1%
5017	OH	Dayton Miami Valley RTA	MB	151	118.0	28.0%
5017	OH	Dayton Miami Valley RTA	TB	65	53.0	22.6%
5022	OH	Toledo RTA	MB	228	170.0	34.1%
5024	OH	Youngstown-Western Res	MB	49	30.0	63.3%
5024	OH	Youngstown-Western Res	DR	4	3.0	33.3%
5011	OH	Canton RTA	MB	49	41.0	19.5%
5097	OH	Kent-Campus Bus Service	MB	23	19.0	21.1%
5097	OH	Kent-Campus Bus Service	DR	6	5.0	20.0%
5018	OH	Hamilton City Lines	MB	16	11.0	45.5%
5021	OH	Steubenville	MB	5	3.0	66.7%
6018	OK	Metropolitan Tulsa TA	MB	93	83.0	12.0%
6017	OK	Central Oklahoma PTA	MB	95	69.0	37.7%
8	OR	Portland-Tri-County MTD	MB	724	494.0	46.6%
7	OR	Eugene-Lane County MTD	MB	80	43.0	86.0%
25	OR	Salem Area MTD	MB	58	41.0	41.5%
3019	PA	Philadelphia-SEPTA	MB	1455	1106.0	31.6%
3019	PA	Philadelphia-SEPTA	RR	456	267.0	70.8%
3019	PA	Philadelphia-SEPTA	SC	313	163.0	92.0%
3019	PA	Philadelphia-SEPTA	TB	110	63.0	74.6%
3019	PA	Philadelphia-SEPTA	CR	363	257.0	41.2%
3022	PA	Pittsburgh-PAT	MB	1026	748.0	37.2%
3022	PA	Pittsburgh-PAT	SC	87	44.0	97.7%
3022	PA	Pittsburgh-PAT	IP	2	2.0	0.0%
3056	PA	Phila-Conrail/SEPTA	CR	363	257.0	41.2%
3010	PA	Allentown-LANTA	MB	85	50.0	70.0%
3013	PA	Erie MTA	MB	77	55.0	40.0%
3014	PA	Harrisburg-Cat	MB	81	61.0	32.8%
3015	PA	Kingston-Luzerne Cnty TA	MB	64	45.0	42.2%
3024	PA	Reading-BARTA	MB	57	43.0	32.6%
3024	PA	Reading-BARTA	DR	24	18.0	33.3%
3011	PA	Altoona-Amtran	MB	35	24.0	45.8%
3012	PA	Johnstown-Cambia Cnty TA	MB	41	17.0	141.2%
3018	PA	Lancaster-Red Rose TA	MB	43	28.0	53.6%
3025	PA	Scranton-Lackawanna TA	MB	36	26.0	38.5%
3026	PA	Williamsport-City Bus	MB	17	11.0	54.5%
3027	PA	York Area TA	MB	20	12.0	66.7%
2001	PR	San Juan-Metro Bus Auth	MB	358	256.0	39.8%
1001	RI	Providence-Rhode Is PTA	MB	274	167.0	64.1%
4053	SC	Greenville TA	MB	23	17.0	35.3%
8002	SD	City of Sioux Falls-TS	MB	26	18.0	44.4%
4003	TN	Memphis Area TA	MB	311	137.0	127.0%
4002	TN	Knoxville Trans Auth	MB	120	54.0	122.2%
4004	TN	Nashville-MTA	MB	150	104.0	44.2%
4001	TN	Chattanooga Area RTA	MB	71	42.0	69.0%
4001	TN	Chattanooga Area RTA	VP	3	1.0	200.0%
4057	TN	Jackson TA	MB	12	10.0	20.0%
6004	TX	Dallas TS	MB	636	440.0	44.5%
6008	TX	Houston-MTA	MB	747	449.0	66.4%
6011	TX	San Antonio-VIA Metro Tr	MB	456	352.0	29.5%
6006	TX	El Paso PTA	MB	135	79.0	70.9%
6007	TX	Fort Worth CITRAN	MB	141	98.0	43.9%
6002	TX	Austin TS	MB	78	64.0	21.9%
6002	TX	Austin TS	DR	13	7.0	85.7%
6003	TX	Corpus Christi TS	MB	44	29.0	51.7%
6043	TX	Houston-Kerrville	MB	59	59.0	0.0%
6001	TX	Amarillo Transit System	MB	30	14.0	114.3%
6016	TX	Beaumont Transit System	MB	25	14.0	78.6%
6010	TX	City of Lubbock	MB	38	24.0	58.3%
6009	TX	Laredo Muni TS	MB	26	18.0	44.4%
6040	TX	Abilene Transit System	MB	17	12.0	41.7%
6015	TX	Galveston Island Trans	MB	15	9.0	66.7%
6012	TX	Waco Transit System	MB	15	9.0	66.7%
8001	UT	Salt Lake City-Utah TA	MB	406	252.0	61.1%
3005	VA	Norfolk-Tidewater TDC	MB	181	110.0	64.5%
3006	VA	Gr Richmond Transit Comp	MB	208	149.0	39.6%

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3004	VA	Hampton-Pentran	MB	118	81.0	45.7%
3008	VA	Gr. Lynchburg Transit Co.	MB	26	19.0	36.8%
3007	VA	Gr. Roanoke Transit Co.	MB	35	24.0	45.8%
1066	VT	Chittenden County TA	MB	29	22.0	31.8%
1	WA	Seattle Metro	MB	1195	749.0	59.5%
1	WA	Seattle Metro	TB	115	109.0	5.5%
2	WA	Spokane Transit Authority	MB	120	93.0	29.0%
3	WA	Tacoma-Pierce Cnty Trans	MB	185	115.0	60.9%
18	WA	Pasco-Ben Franklin Tr	MB	43	37.0	16.2%
24	WA	Vancouver-C-Tran	MB	55	40.0	37.5%
21	WA	Bellingham Muni Transit	MB	24	13.0	84.6%
5	WA	City of Everett	MB	43	25.0	72.0%
19	WA	Olympia-Intercity Transit	MB	42	30.0	40.0%
6	WA	Yakima-Transit Fund	MB	17	12.0	41.7%
32	WA	Wash DOT/Seattle Ferry	FB	20	12.0	66.7%
31	WA	Wash DOT/Tacoma Ferry	FB	1	1.0	0.0%
5008	WI	Milwaukee County TS	MB	632	467.0	35.3%
5005	WI	Madison Metro	MB	191	131.0	45.8%
5001	WI	Appleton-Valley Transit	MB	38	25.0	52.0%
5006	WI	Belle Urban System	MB	37	32.0	15.6%
5002	WI	Green Bay TS	MB	29	23.0	26.1%
5003	WI	Kenosha Transit Comm	MB	30	25.0	20.0%
5004	WI	La Crosse Municipal TU	MB	29	21.0	38.1%
5009	WI	Oshkosh Transit System	MB	26	20.0	30.0%
5088	WI	Sheboygan Transit	MB	27	16.0	68.8%
5109	WI	Beloit Transit System	MB	10	6.0	66.7%
5099	WI	Eau Claire Transit	MB	20	15.0	33.3%
5108	WI	Janesville Transit System	MB	22	16.0	37.5%
5096	WI	Waukesha Metro Transit	MB	14	11.0	27.3%
5091	WI	Wausau Area Transit	MB	24	13.0	84.6%
3001	WV	Charlestn-Kanawha Vly RTA	MB	72	57.0	26.3%
3035	WV	Wheeling-Ohio Valley RTA	MB	21	15.0	40.0%

SENATOR ANDREWS: What percent and total of buses are purchased by private operators, by intercity carriers, by charter operators and by public agency operators?

ANSWER: In FY 1984, UMTA obligated funds for 1,698 standard and articulated bused and 434 small buses to public transit agencies. At the same time, intercity operators purchased approximately 800 buses and charter operators about 1,400 buses.

STUDY CITED

SENATOR ANDREWS: In the Opening Statement, (Pg. 4) Mr. Stanley cited a study on the impact of Federal assistance to transit (i.e., how the operating assistance of $8.0 billion has been used). What is the name of the study? By whom? For the record please provide the Committee with a copy of that study.

ANSWER: The figures in the Opening Statement are based on a July 1983, study titled, "The Causes of Rising Transit Operating Deficits," by Don H. Pickrell of Harvard University. This report is too large to copy for the record, but a copy will be transmitted to the Committee.

SAFE HARBOR LEASING

SENATOR ANDREWS: Update for the committee the chart provided on pages 726 and 731 of last year's hearing record listing the grantees and amount earned using the safe harbor leasing procedure. How much has this increased from the amounts detailed last year?

ANSWER: We are pleased to provide you with updated information. The increase in amounts earned by transit operators from safe habor leasing sales is approximately $6 million.

Washington Metropolitan Transit Authority

Date of Transaction:	September 29, 1985
Equipment:	33 Articulated Buses, 20 Rehabs
Amount earned:	$240,330.60
Transaction cost:	
Intended use of funds:	Operations
Total equipment cost:	$11,594,017.71
Local share leased:	20 percent

Date of Transaction:	March 14-15, 30, 1984
Equipment:	75 Neoplan Buses, 64 Rehabs
Amount earned:	$674,878.26 (partial sale)
Transaction cost:	
Intended use of funds:	Operations
Total equipment cost:	$6,338,566.04
Local share leased:	20 percent bus, 16.62 percent rail

Date of Transaction: April 30, 1984
Equipment: 75 Neoplan Buses, 64 Rehab
20 Rail Cars
Amount earned: $48,205.59 (partial sale)
Transaction cost:
Intended use of funds: Operations
Total equipment cost: $6,338,566.04 Local share
leased: 20 percent bus, 16.62 percent rail

Date of Transaction: June 15, 1984
Equipment: 75 Neoplan Buses, 64 Rehabs
0 Rail Cars
Amount earned: $96,411.18 (partial sale)
Transaction cost:
Intended use of funds: Operations
Total equipment cost: $6,338,566.04
Local share leased: 20 percent bus, 16.62 percent rail

Date of Transaction: June 29, 1984
Equipment: 57 Rehabs, 38 Rail Cars
Amount earned: $1,140,428.37
Transaction cost: $97,373.09
Intended use of funds: Operations
Total equipment cost: $39,044,599.29
Local share leased: 20 percent bus, 16.62 percent rail

Date of Transaction: September 27, 1984
Equipment: 75 Neoplan Buses, 64 Rehabs
Amount earned: $90,414.81
Transaction cost:
Intended use of funds: Operations
Total equipment cost: $17,421,208.16
Local share leased: 20 percent

Date of Transaction: December 28, 1984
Equipment: 118 Rehabs, 18 Rail Cars
Amount earned: $813,999.45
Transaction cost:
Intended use of funds: Operations
Total equipment cost: $25,878,476.48
Local share leased: 20 percent bus, 16.62 percent rail

Pennsylvania Department of Transportation

Date of Transaction: December 27, 1984
Equipment: 15 Advanced Design Transit Buses
Amount earned: $60,682.97
Transaction cost: $3,034.15
Intended use of funds: Operating assistance, capital improvements or other special purpose use
Total equipment cost: $2,231,789.25

Date of Transaction: December 27, 1984
Equipment: 30 Advanced Design Transit Buses
Amount earned: $113,285.83
Transaction cost: $5,664.29
Intended use of funds: Operating assistance, capital improvements or other special purpose use
Total equipmment cost: $4,551,735.00

Date of Transaction: December 27, 1984
Equipment: 150 Advanced Design Transit Buses
Amount earned: $620.320.24
Transaction cost: $32,648.50
Intended use of funds: Operating assistance, capital improvements or other special use
Total equipmment cost: $4,728,894.00

Date of Transaction: December 21, 1984
Equipment: 73 Passenger Buses
Amount earned: $314,242.30
Transaction cost: $2,043,187.93
Intended use of funds: Land acquisition to facilitate the needs of the Automated Skyway Express
Total equipment cost: $11,865,967.49
Local share: 100 percent

MBTA (Boston)

Date of Transaction: December 20, 1984
Equipment: Locomotives, 2 LRVs, 46 Leary Rail
Amount earned: $637,932.00
Transaction cost: $40,000.00
Intended use of funds: Operating budget
Total equipmment cost: $4.8 million

City of Anchorage

Date of Transaction: September 24, 1984
Equipment: 22 Buses
Amount earned: $693,990.00
Transaction cost: $3,850.00
Intended use of funds: Capital improvements
Total equipmment cost: $3,510,194.00

RTD (Denver)

Date of Transaction: September 15, 1984
Equipment: 89 Buses
Amount earned: $555,980.00
Transaction cost: $23,000.00
Intended use of funds: Capital projects
Total equipmment cost: $21,671,635.00

Maryland Department of Transportation (MDOT)

Date of Transaction: December 30, 1983
Equipment: 23 Rail Commuting Vehicles
90 Buses, 48 Subway Cars
Amount earned: $2,173,572.24
Transaction cost: $20,249.95
Intended use of funds: Deposited in State of Maryland Transportation Trust Fund for financing of all forms of transportation
Total equipment cost: $67,144,363.00

MBTA (Boston)

Date of Transaction: December 20, 1984
Equipment: Locomotives, 2 LRVs, 46
Leary
Rail
Amount earned: $637,932.00
Transaction cost: $40,000.00
Intended use of funds: Operating budget
Total equipmment cost: $4.8 million

City of Anchorage

Date of Transaction: September 24, 1984
Equipment: 22 Buses
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Transaction cost: $3,850.00
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Total equipmment cost:	$21,671,635.00

LEVERAGE FINANCING

SENATOR ANDREWS: Last year, UMTA indicated that a report on leverage financing would soon be presented to the Congress. What is the current status of the report? What is the expected issuance date? Why has issuance of the report been delayed?

ANSWER: The Section 315 report, required under the STAA, examines opportunities to improve the financing mechanisms available to transit operators who wish to attract greater non-Federal financing for use in major transit capital projects.

The report has been approved by the UMTA Administrator. It is currently being reviewed by the Office of the Secretary. The report is receiving careful review because the Department wishes to consider the approaches discussed in the report while developing its 1985 legislative proposals.

We expect to issue the report in the near future.

SENATOR ANDREWS: Leverage financing is not a well-defined or easily understood concept and, therefore, can be interpreted in a variety of ways. How do you define leverage financing?

ANSWER: Leverage financing involves borrowing against a future stream of revenues, from whatever source, in order to fund a large project in the short term. The stream of revenue needs to have a high degree of assuredness and could come from a dedicated sales tax, property tax revenue from a benefit district, fare revenues, guaranteed grants from the State or Federal Government, etc.

Leverage financing allows large investments to be made more quickly, taking advantage of optimum construction schedules, getting improvements completed and in operation sooner.

SENATOR ANDREWS: When designating the study, did the project staff obtain input from State and local transit agencies and Metropolitan Planning Organizations?

ANSWER: A number of local agencies were contacted including the Metropolitan Transportation Authority in New York and Port Authority Transit in Pittsburgh.

SENATOR ANDREWS: To what extent did local transit systems, State and local governments and Metropolitan Planning Organizations provide insights concerning the feasibility of using leverage financing to satisfy capital resource requirements?

ANSWER: The local agencies contacted contributed significant information on their own experiences in leverage financing. They indicated that they saw the technique limited in usefulness unless very strong commitments can be made on the stream of revenue to be borrowed against. They believed that this was much more possible with State and local revenue such as dedicated sales taxes, benefit assessment district property taxes and fare revenue.

SENATOR ANDREWS: Were financial institutions consulted during the project? What insights did they provide concerning the feasibility of using leverage financing to assist transit systems?

ANSWER: A number of financial institutions were contacted during the study. In general, they believed that small changes in the UMTA grantmaking process would not be sufficient to make the Federal revenues dependable enough to leverage long term borrowing against them. They believed that only a major change providing that these funds would be provided in future years as full-faith-and-credit commitments would allow for such leveraging. However, they did see the possibility for use of short-term, grant anticipation notes to obtain funds needed to optimize construction schedules. The key feature they cited was the need for assured revenue streams to allow significant leverage.

SENATOR ANDREWS: The Federal Government has provided significant amounts for financing capital investments for transit. To what extent is a transit agency's ability to utilize leverage financing techniques tied to the availability of Federal assistance? What factors influence the level of financing that the private sector is willing to provide?

ANSWER: It does not appear that the availability of Federal funds effects the ability to leverage them as much as their predictability. The private sector needs to be assured that the stream of revenue pledged is secure and predictable.

SENATOR ANDREWS: Given the Administration's desire to significantly reduce the capital assistance the Federal Government will provide, does leverage financing require continued examination by DOT? Is this approach beneficial even if UMTA's capital budget is significantly reduced?

ANSWER: We believe that this concept is of sufficient merit to continue its examination. We intend to continue study of the concept as part of our efforts to provide transit operators and funding agencies with information on innovative ways to fund transit.

SENATOR ANDREWS: UMTA-sponsored research shows that some innovative financing techniques have been used to provide financial support for public transit systems. For example, the Metropolitan Transit Authority in New York has purchased transit equipment through the issuance of tax-exempt industrial revenue bonds. Similarly, the Southern California Rapid Transit District has purchased new buses by issuing equipment trust bonds to provide local matching funds. Are there any emerging trends concerning the kinds of financing strategies transit systems are using to increase non-farebox revenue sources? If so, describe.

ANSWER: Based on the limited number of examples of use of such techniques, it is too early to sense much of a trend. However, exploration of these techniques does demonstrate the increasing imagination transit funding agencies are bringing to bear in finding ways to pay for transit facilities and services. We believe this represents a positive development.

SENATOR ANDREWS: How extensively have borrowing techniques, such as the issuance of tax-exempt revenue bonds, been used by the transit industry?

ANSWER: To date, only New York has applied this technique.

Questions exist over the tax exempt status of bonds issued which are backed by Federal grants or multi-year funding commitments. This could limit the application of this method to areas which would want to go beyond fare revenues to anticipated grants to back such bonds.

SENATOR ANDREWS: Are there any financing mechanisms being used in the transit industry that are particularly attractive to the private sector? Would the private sector be willing to provide capital using these mechanisms?

ANSWER: The private sector appears to be much more concerned with the security of the arrangement rather than the specific mechanism. They want to be assured that this revenue stream is guaranteed, stable and reliable.

SENATOR ANDREWS: Some localities have financed transit projects through the establishment of benefit assessment districts to enable a transit property to benefit from increased property values generated by a transit facility. How has this technique been used to generate financing for transit systems?

ANSWER: Benefit Assessment Districts involve establishment of areas in the vicinity of transit improvements (usually station areas) within which a supplemental property tax is levied. The proceeds of this tax are then dedicated to either the operation or payment of debt service on bond issues for a part of the capital cost of the project.

In Miami, a district was established in the downtown to help pay for the construction of the Downtown Component of Metrorail (DCM) or "Metromover." Bonds totaling $20 million are to be issued against the tax revenues generated in the district. In Los Angeles, a similar arrangement has been proposed as part of the funding package for the Wilshire Line. In Denver, a benefit assessment district supports maintenance of the downtown transit mall. In Minneapolis, a benefit assessment district was used to help pay for construction and operation of the Nicollet Mall.

SENATOR ANDREWS: How extensively has this technique been used?

ANSWER: This is a relatively new and innovative means of transit finance. The examples in Miami, Denver and Minneapolis have demonstrated its feasibility. The evidence to date indicates that from 5 percent to as much as 20 percent of a project's cost could be covered by benefit assessment district supported bonds.

SENATOR ANDREWS: Has UMTA sponsored research on using this financing technique? If so, what have been the results?

ANSWER: A study has been completed and a report published describing the Miami DCM benefit assessment district. The report describes in detail the process used to develop the public-private cooperation necessary to establish this funding method as well as providing detail on the mechanism as established.

A study is now underway by the Council of State Governments to develop model enabling legislation to permit localities to set up such districts. This study is also to document the process and mechanism in Los Angeles.

SENATOR ANDREWS: What problems are associated with using this technique?

ANSWER: The main problem in establishing benefit assessment districts is in obtaining the necessary approvals from voters and/or property owner's in the districts. They must be convinced that the benefit is real and commensurate with the increased taxation. In addition, property owners prefer that this assessment district use an ad valorem tax rather than a pure assessment to ensure its deductability for income tax purposes. Finally, enablying legislation is required which can often be difficult to obtain from the State.

UMTA ORGANIZATION

SENATOR ANDREWS: If reductions in the mass transit program are made as proposed, do you see a need for restructuring UMTA? What would its future be?

ANSWER: If the proposed reductions are made, a restructuring of UMTA would be considered as a viable option for implementing such reductions. However, exactly how the Agency would be restructured has yet to be determined. Currently, UMTA is assessing the likely impacts of the proposed reductions on UMTA's organization and staffing. A final determination regarding organizational structure will be made upon the completion of this study.

SENATOR ANDREWS: The budget proposal reduces staffing by 27 percent and eliminates field offices. What is the schedule for field office elimination? What office gets eliminated? When and how many persons are affected in such office?

ANSWER: No final decision has been made regarding the elimination of UMTA's Regional Offices. If the Regional Offices are closed, the closing will follow a logical progression. This gradual reduction process will be implemented in phases so as to allow the orderly transition of the delivery of the grant-making process from a Regional responsibility to a Headquarters function.

SENATOR ANDREWS: What is the savings associated with closing the field offices -- both personnel and nonpersonnel costs for each office?

ANSWER: The impact of closing the field offices and transferring these functions to Headquarters is presently under active study by UMTA. The number of employees and the timing of any reduction-in-force, plus any savings which may be achievable have not been established, since we do not have firm estimates of personnel and other costs associated with the reduction. The savings shown in the FY 1986 administrative expenses budget of $3.1 million for personnel costs and $1.5 million in other costs represent preliminary estimates of savings which may not be fully realized in FY 1986 depending on the timing of any reductions. For example, savings in field office space rental charges, which now cost $680,000, would likely not be realized because annual rental contracts with GSA could not be cancelled in late FY 1986.

SENATOR ANDREWS: Do field office personnel have bumping rights back to the UMTA office in Washington or to other regional offices?

ANSWER: No. UMTA's policy is structured in accordance with the Office of Personnel Management regulations. Bumping rights are limited to the commuting area in which the employee works.

SENATOR ANDREWS: Will there be any reductions-in-force in the Washington Office? If, so, which offices and how many for each office? What is the savings associated with reduction-in-force (RIF's) in the Washington Office?

ANSWER: No decision has been made regarding a RIF in the Washington Office, however, we do expect some reductions in both Headquarters and Regional staff. An estimate of savings associated with a RIF has yet to be determined. Once UMTA has completed its review of the possible impacts of the proposed budget reductions and associated changes to organizational structure, the savings will then be determined.

ADMINISTRATIVE EXPENSES

SENATOR ANDREWS: What is the $1.646 million requested for in Fiscal Year 1986? How many terminated personnel does this cover? What is the average separation payment?

ANSWER: The $1.646 million reflects estimated severance payments and unemployment compensation to former UMTA personnel after the agency conducts a reduction-in-force, which will effect approximately 160 employees. The average separation payment included in this estimate is $10.3 thousand for severance pay and unemployment compensation. This amount does not include terminal leave payments of approximately $6.0 thousand per employee.

SENATOR ANDREWS: List the "other services" purchased with $4.2 million in FY 1985 and planned for the $4.4 million in FY 1986? (to whom, for what service, in what amounts).

ANSWER: The following is the list of "other services" purchased in FY 1985 and planned for FY 1986 in thousands of dollars:

	FY'85	FY'86
Administrative Contracts	$ 250	$ 266
Employee Training	285	306
Administrative Services Working Capital Fund (WCF)	440	470
Security Investigations	25	31
Office Machine Maintenance & Repair	145	160
Space Arrangements	90	98
Administrative Services (Other)	5	13
Storage of Household Goods	25	27
ADP Services (TCC, Timeshare, WCF)	950	1,750
ADP Contract Support	1,470	945
Other Contractual Services	520	375
Total	$4,205	$4,441

SENATOR ANDREWS: List how the $1.25 million for the Financial Management System and the Office Automation Improvement Project was spent. ($.5 million for FMS and $.75 million for Automation)

ANSWER: Obligations incurred to date plus projection consist of the following:

Fiscal Year	FMS	GMIS	OA	Total
1982 (actual)	$ 800,000	$ -0-	$ -0-	$ 800,000
1983 (actual)	700,000	300,000	360,000	1,360,000
1984 (actual)	915,000	450,000	314,000	1,679,000
1985 (estimate)	320,000	750,000	1,000,000	2,070,000
Total	$2,735,000	$1,500,000	$1,674,000	$5,909,000

The above figures include obligations for the total systems effort; namely, obligations for developmental, enhancements, and operational processes covering data clean-up efforts, equipment purchases, conversion of current software applications and training on new procedures and equipment. Future levels of expenditures will be dependent upon Congressionally approved program budgets.

The new FMS will provide adequate and required financial and administrative controls to accommodate UMTA's expanding grant program activities and effectively track attendant administrative expenses. The new system will develop data on obligations, unobligations, deobligations, recoveries, outlays, etc. and identified between appropriations, apportionments, allotments and operating budgets, as well as responding to status of funds on the several activities represented by the various Sections of the Act, pursuant to meeting requirements of internal management. Under the new system UMTA will be issuing more accurate and timely financial reports to external authorities (i.e., Congressional Committees, Office of Management and Budget, Treasury Department, etc.). Through UMTA's newly implemented Letter of Credit-Treasury Financial Communications System (LOC-TFCS) increasingly prompt payments will be made to the UMTA grantee community. The LOC-TFCS enables UMTA to control and to make payments to grantees via "next day" wire transfer, thus eliminating an unpredictable payment turnaround time because of mail time. The FMS will provide the necessary mechanism to insure prompt payment to vendors, so as to avoid payment of interest penalties and preclude higher interest costs on the public debt.

The proposed revised GMIS is intended to eliminate the data entry and retrieval liabilities of UMTA's current system. Access to the GMIS is proposed to be nearly instantaneous with features such as single data entry and full screen editing as design features. Users (primarily regional staff) would only enter data once, with the GMIS itself assigning new entries or updates to all areas in the system wherein the data item is identified. Eliminating redundant entries will reduce the time currently involved in data processing. System users will be expected to derive benefits from data entered since it will be easily extracted in a useable fashion. Additionally, the ability will be present to sort and aggregate data elements at will. Further, GMIS would be linked to the Section 15 and FMS data base so that data could be related and analysis conducted. Much planning and developmental work remains to be performed on the new GMIS during succeeding fiscal years.

The design, development, and implementation of new FMS and GMI systems mandate a corresponding upgrading of equipment needed to retrieve, process and disseminate data contained in those systems. Total equipment needs are being developed and finalized at this time and will be incorporated into the agency's equipment acquisition plans. Plans are being carried out to replace out-dated, stand-a-lone word processors and data terminals with limited processing capabilities. Equipment being replaced is not compatible with nor capable of being integrated into a current-period office automation environment. The cost to maintain such obsolete equipment is unreasonable in comparison to work stations that have more capability and can be integrated into a common UMTA-wide system. UMTA is in the midst of obtaining a baseline multifunctional word and data processing system which will be cost effective and permit compilation of more timely and accurate data, institute better internal controls, improve responsiveness to inquiries, achieve greater volume efficiencies, and provide rapid communication of text and data throughout the organization. The office automation project was initiated during Fiscal Years 1984 and 1985. Its appropriate completion in succeeding years will be dependent upon Congressional approved budgets.

RESEARCH, TRAINING & HUMAN RESOURCES

SENATOR ANDREWS: The UMTA Budget Justification proposes funding the Research, Training and Human Resources programs from prior year unobligated balances. Why has such a high level ($24.6 million) of unobligated balances been allowed to build up? The UMTA proposal would have the impact of cutting the Research, Training and Human Resources program level by more than 50 percent. Why has UMTA decided to make such a large reduction in this area?

ANSWER: Most of the $24.6 million proposed for obligation in FY 1986 accumulated during FY 1984 as the result of major policy and directional changes which took place in the Research, Training and Human Resources program during that year. Since the project development cycle for a typical technical assistance project exceeds one year, projects which matched the new direction and policy of the program could not be developed and approved within the fiscal year.

In absolute terms, the $24.6 million for Research, Training and Human Resources does represent a reduction from current levels; however, in relative terms, it represents a larger proportion of the total UMTA budget than in recent years. In Fiscal Years 1984 and 1985, funding for these activities represented approximately 1% of the total UMTA budget. In contrast, the $24.6 million represents approximately 2% of the total UMTA request, and, as such, should provide funding adequate for FY 1986 activities.

SENATOR ANDREWS: The Conference Report directed Human Resources (Section 20) funding of $7,500,000. The Budget Justification estimates FY 1985 funding at $10,500,000. Why did UMTA increase this program $3,000,000 beyond the amount of the Conference Report? What was the $3,000,000 used for? What other activities were funded by this program?

ANSWER: UMTA had intended to obligate $3,000,000 of Section 20 funding to the Demonstration Bonding Program in FY 1984. Because of a number of unresolved issues concerning the implementation of the Demonstration Bonding Program, these funds were not obligated in FY 1984. Accordingly, UMTA allocated this $3,000,000 carryover to Section 20 in FY 1985.

In FY 1984, UMTA obligated Section 20 funds for a multi-site project to upgrade transit employees skills (focusing on minority employees), to implement the Procurement Support Delivery System for the benefit of disadvantaged and women's business enterprises (DBEs/WBEs), to provide technical and management assistance to DBEs/WBEs, to investigate opportunities for DBE/WBE participation in joint development activities, and for a transit career development project involving two historically black universities.

SENATOR ANDREWS: What part of the $4,500,000 for FY 1986 will be used for the Demonstration Bonding Program?

ANSWER: The $4.5 million in FY 1986 does not include any additional funding for UMTA's Demonstration Bonding Program. The $4.5 million reflects the same level of activity under Section 20 as in FY 1985, absent the Bonding Program.

SENATOR ANDREWS: Have any of these human resource studies examined the problem of absenteeism in the transit industry? In the Washington Metro budget, 34 drivers are to be hired to cover increases in absenteeism. Is the absentee rate for Washington typical for the industry? Have any estimates been made of the cost of absenteeism to the industry?

ANSWER: In 1980, with the assistance of an UMTA grant, the Port Authority of Allegheny County published a report on transit industry absenteeism. Based on 1978 data, the report indicated that the average vehicle operator was absent 28.57 days or 11.9 percent of average scheduled workdays, excluding vacations and holidays. For 1978, the total estimated cost was $187 million or $1,780 per vehicle operator for absence. UMTA's most recent information comes from a follow-up to that study, which only compared absenteeism levels for a select group of transit agencies based on 1981-82 data. It reported an average weekday rate of 9.4 percent for vehicle operator absence at some 26 transit agencies having 800 or more full-time operators. At the Washington Metro hearing, the General manager reported an annual absenteeism rate of 8 percent for drivers, which is somewhat better than the average rate for most large systems. We believe that with more local responsibility, transit operators will see that absenteeism is a major concern which can only be addressed by local management.

SENATOR ANDREWS: From what specific activities (as originally identified by the 1984 appropriations) does the $24.6 million in unobligated funds derive? How much from each activity?

Answer: The $24.6 million represents the unobligated balances from FY 1984, plus some small amounts available from FY 1983 and from prior year deobligations. The table below lists the Research, Training and Human Resources program areas, the respective obligations of FY 1984 appropriated funds, and the amount of FY 1984 funds not obligated. The amounts obligated show only the expenditure of FY 1984 appropriations, and do not include obligations of prior year funds which occurred during FY 1984.

RESEARCH, TRAINING AND HUMAN RESOURCES
ACTIVITIES NOT FUNDED IN FY 1984
(dollars in thousands)

	FY 1984 APPROPS	FY1984 OBLIGS	FY 1984 $ UNOBLIGT'D
A. Bus and Paratransit (Section 6)......... $	7,000	1,902	5,098
B. Rail and Construction (Section 6)......... $	8,500	5,480	3,020
C. New Technology (Section 6)......... $	10,000	7,454	2,546
D. Service and Methods (Section 6)......... $	7,500	3,444	4,056

	FY 1984 APPROPS	FY1984 OBLIGS	FY 1984 $ UNOBLIGT'D
E. Planning Methods (Section 6).........$	3,700	2,266	1,434
F. Transportation Management (Section 6).........$	2,000	647	1,353
G. Statistics, Information Services and NCTRP (Section 6).........$	3,000	2,692	308
H. Safety and Security (Section 6).........$	2,800	1,990	810
I. Budget and Policy (Section 6).........$	1,200	1,236	(36)
J. Civil Rights (Section 6)..........$	0	849	(849)
Section 6 SUBTOTAL..............$	45,700	27,960	17,740
K. Management Training (Section 10)........$	1,350	994	356
L. University Research (Section 11a).......$	2,000	1,997	3
M. Human Resources (Section 20)........$	5,750	1,522	4,228
Research, Training and Human Resources TOTAL..................$	54,800	32,473*	22,327**

*This figure does not include obligations of funds deobligated in prior years or obligation of funds available from FY 1983 carryover.

**This figure does not reflect amounts available from prior year deobligations or from FY 1983 carryover.

SENATOR ANDREWS: Provide for the record UMTA obligations for the specific categories as specified by the reports accompanying the appropriations for fiscal year 1983, 1984 and 1985.

ANSWER: The following tables show obligations for the Research, Training and Human Resources program, against categories specified in the reports accompanying the appropriations for FY 1983, FY 1984 and FY 1985. The obligations shown in these tables represent expenditures of current year funds as well as carryover from prior years and reobligation of prior year deobligations.

RESEARCH, TRAINING AND HUMAN RESOURCES
Obligations for FY 1983 and FY 1984
(dollars in thousands)

	FY 1983 Actual	FY 1984 Actual
A. Bus and Paratransit (Section 6).......... $	6,342	2,130
B. Rail and Construction (Section 6).......... $	6,359	5,480
C. New Technology (Section 6).......... $	14,500	7,454
D. Service and Methods (Section 6).......... $	15,072	3,444
E. Planning Methods (Section 6).......... $	3,842	2,436
F. Transportation Management (Section 6).......... $	2,140	647
G. Statistics, Information Services and NCTRP (Section 6).......... $	4,730	2,692
H. Safety and Security (Section 6).......... $	2,774	2,023
I. Budget and Policy (Section 6).......... $	1,270	1,483
J. Civil Rights (Section 6)..........$	736	875
Section 6 SUBTOTAL.............. $	57,765	28,664
K. Management Training (Section 10)........ $	2,584	994
L. University Research (Section 11a)....... $	2,074	1,997
M. Human Resources (Section 20)........ $	0	1,522
Research, Training and Human Resources TOTAL.................. $	62,423	33,177

RESEARCH, TRAINING AND HUMAN RESOURCES
FY 1985 Obligations as of April 23, 1985
(dollars in thousands)

	FY 1985 Obligations
A. Research and Technical Assistance (Section 6)	$ 3,276
B. New Technology (Section 6)	$ 234
C. Service and Methods (Section 6)	$ 1,954
Section 6 SUBTOTAL	$ 5,464
K. Management Training (Section 10)	$ 205
L. University Research (Section 11a)	$ 0
M. Human Resources (Section 20)	$ 25
Research, Training and Human Resources TOTAL	$ 5,694

SENATOR ANDREWS: What are the institutional impediments to private sector involvement in mass transit as mentioned in the budget justification for research? (Please elaborate) How much was expended in this area in fiscal years 1983 and 1984? How much is estimated to be spent in fiscal year 1985 and 1986?

ANSWER: Institutional impediments to private sector involvements in mass transit addressed by UMTA's office of Technical Assistance include: constraints on the type of vehicles that can be used, labor agreements, insurance/financial requirements, regulations prohibiting competition in areas/routes and various other forms of regulations.

Examples of UMTA activities to assist in removing impediments include studies and demonstrations on regulations and their impediment to private transit operators, the formation of Transit Management Organizations (TMO) by the private business and community leaders to improve local mobility, labor agreements and their impact on the ability of public operators, the initiation of innovative paratransit services to targeted users, and the dissemination of information through a Public Transportation Network (PTN) information exchange program.

Actual funding for these efforts was:

FY 1983 - $ 938,000 Actual

FY 1984 - $1,109,000 Actual

FY 1985 - $1,398,000 Estimated

FY 1986 - $1,900,000 Estimated.

SENATOR ANDREWS: How much was obligated for safety and security in fiscal years 1983 and 1984? What are the estimated obligations for fiscal years 1985 and 1986? List the activities, projects (for the four fiscal years) or grants that used the funds, a brief description for each and the amount of funds expended.

ANSWER: In FY 1983, $2.774 million was obligated under the safety and security activity; in FY 1984, those obligations totalled $2.023 million. For FY 1985, we are working toward increasing funding for safety and security (as earmarked by the Senate in the FY 1985 continuing resolution) to a substantially higher level. UMTA plans to continue to emphasize and to fund the safety and security program; however, commensurate with our overall FY 1986 budget request, total FY 1986 funding for the program will be in the $3 million range.

The following table breaks down the FY 1983 and FY 1984 obligations by project. At this time, we are not able to provide a project-by-project listing for FY 1985 and FY 1986.

UMTA RESEARCH AND TRAINING
SAFETY AND SECURITY PROJECTS
OBLIGATED IN FY 1983 AND FY 1984

(IN THOUSANDS OF DOLLARS)

FY 1983:

PROJECT NUMBER	PERFORMER NAME	OBLIGATION AMOUNT	OBLIGATION DATE	PROJECT DESCRIPTION
CA-06-0199	MUNI (SAN FRAN.)	38	09/26/83	PHOTOCELL DOOR OPENER DEMONSTRATION
DC-06-0215	FAA/TSI	350	07/26/83	SAFETY & SECURITY TRAINING PROGRAM AT THE TRANSPORTATION SAFETY INSTITUTE
DC-06-0395	DOT/OST	2	N/A	PRINTING & INFORMATION DISSEMINATION
DC-06-0441	TRB/NAS	58	05/03/83	SAFETY WORKSHOPS IN CONJUNCTION WITH THE NATIONAL ACADEMY OF SCIENCES
DC-06-0472	WMATA (DC)	40	09/26/83	DEDICATED SAFETY TRAINING FOR EMPLOYEES AT WMATA
FL-06-0025	DADE CO.,FLA.	200	03/17/83	ANTI-CRIME RESEARCH & DEMONSTRATION
MA-06-0151	MBTA (BOSTON)	15	04/07/83	BUS CIRCLE DEMONSTRATION

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PROJECT NUMBER	PERFORMER NAME	OBLIGATION AMOUNT	OBLIGATION DATE	PROJECT DESCRIPTION
MA-06-0152	TSC	1455	09/26/83	SAFETY & SECURITY SUPPORT FROM THE DOT TRANSPORTATION SYSTEMS CTR. (CAMBRIDGE)
MD-06-0096	ASG ASSOC.	200	12/29/82	DEVELOPMENT & MAINTENANCE OF THE BUS "SIRAS" REPORTING SYSTEM
MI-06-0038	SEMCOG (DETROIT)	85	05/27/83	SECURITY MANAGEMENT DEMONSTRATION
NY-06-0117	PATH (NEW YORK)	60	09/23/83	UNDERCAR (RAILCAR) FIRE SAFETY RESEARCH DEMONSTRATION
VA-06-0111	MANDEX, INC.	199	09/30/83	SECURITY INFORMATION FEASIBILITY STUDY
		2774		
FY 1984:				
DC-06-0215	FAA/TSI	300	09/27/84	SAFETY & SECURITY TRAINING PROGRAM AT THE TRANSPORTATION SAFETY INSTITUTE
DC-06-0285	TRB/NAS	20	02/02/84	INFORMATION DISSEMINATION FOR "UMTRIS"
DC-06-0395	DOT/OST	5	11/09/83	PRINTING & INFORMATION DISSEMINATION
DC-06-0444	PTI, INC.	74	04/30/84	SAFETY & SECURITY INFORMATION DISSEMINATION
DC-06-0477	OMEGA GROUP	140	09/19/84	ASSESSMENT OF STATE & LOCAL REGULATIONS ON PUBLIC TRANSIT SAFETY
DC-06-0492	TRB/NAS	20	09/29/84	SAFETY WORKSHOPS IN CONJUNCTION WITH THE NATIONAL ACADEMY OF SCIENCES
DC-06-0510	FRA	33	04/02/84	NYCTA (NEW YORK) TRACK INSPECTION
IT-06-0190	BATTELLE	100	09/07/84	RECOMMENDATIONS FOR SAFETY REQUIREMENTS IN CONNECTION WITH ADVANCED TECHNOLOGY CONTROLS ON MASS TRANSIT SYSTEMS
MA-06-0152	TSC	1055	05/04/84	SAFETY & SECURITY SUPPORT FROM THE DOT TRANSPORTATION SYSTEMS CTR. (CAMBRIDGE)
MA-06-0171	TSC	260	09/21/84	CONTRIBUTION TO THE DOT SMALL BUSINESS INNOVATIVE RESEARCH (SBIR) PROGRAM FOR FOR SAFETY & SECURITY PROJECTS
		2023		

SENATOR ANDREWS: What equipment oriented development activities are likely to be reduced due to increased emphasis on the private sector.

ANSWER: UMTA's emphasis on the private sector includes support of a healthy private transit equipment market. At the same time, UMTA will continue to consider equipment projects that are of substantial national interest and impact, that address problems that cannot be solved through warranty negotiations, that have near term payoff, and that would not otherwise be undertaken by a private supplier. We have already terminated expensive programs of limited interest such as AGRT and flywheel development, and are constraining our involvement in AC propulsion and inductive coupling.

SENATOR ANDREWS: What are the estimated obligations in FY 1985 and 1986 for policy research on private sector delivery of public transportation services?

ANSWER: It is estimated that $500,000 will be allocated to private sector policy research in FY 85. The Office of Private Sector's research budget for FY 86 has not as yet been determined. However, it is estimated the Office of Budget and Policy overall research budget will be approximately $1.2 million for FY 86.

TECHNICAL ASSISTANCE

SENATOR ANDREWS: It appears that UMTA is shifting its research orientation away from hardware development. Why does UMTA feel that efforts to develop new transit technologies are no longer justified:

ANSWER: The UMTA Technical Assistance program implements activities to encourage manufacturers to provide equipment, products, and processes that lower the cost of ownership and reinforce manufacturer and supplier responsibility for product quality, reliability and maintainability. However, because of increased private sector participation, expenditures for equipment-oriented or development activities that fall within the purview of the private sector are being substantially reduced.

SENATOR ANDREWS: UMTA is emphasizing attracting greater private involvement to transit in its research. Does this approach offer greater efficiency and service improvement potential than research support for traditional transit operations?

ANSWER: UMTA believes that in a large number of cases, private providers can provide lower cost and higher quality service than can publicly operated systems. Studies by Dr. Roger Teal from the University of California show that in those cases he has examined, private operators have been able to consistantly provide equivalent service at between 20 to 60 percent lower than public providers. In many cases private providers have even been able to provide unsubsidized service and still at a profit to themselves. UMTA, is therefore, emphasizing the replacement by private operators of only those services that they can provide at a lower cost to the public. UMTA will continue to support research that can improve the efficiency and service potential of traditional transit operations wherever that service is the most economical way of meeting the need.

SENATOR ANDREWS: Because of the budget proposal to reduce federal assistance to transit, the transit agencies may face a difficult adjustment period while they revamp their operations and financing. Are you planning to provide technical assistance to them in these areas?

ANSWER: UMTA does plan to assist transit providers during the transition period by undertaking projects which foster increased local financial self-reliance and less dependency on Federal funds for carrying out transit operations, both by lowering local operating costs and by increasing access to non-Federal sources of revenues.

SENATOR ANDREWS: Is it realistic to expect that improvements in transit agency financial planning, operations, management and marketing can substantially reduce the need for Federal subsidies? If so, will UMTA's Technical Assistance Program be able to provide enough support for those systems that need it?

ANSWER: Yes, it is believed that transit costs can be reduced, thereby reducing the demand for Federal subsidies. UMTA is able to provide assistance in a wide number of areas and through the use of various techniques. One example is the Public Transportation Network (PTN) that enables peer-to-peer interactions to be arranged, thereby allowing an agency which has implemented an innovative technique to impart this information to transit professionals from an agency which has a similar problem. This peer-to-peer, solution-to-problem matching has worked well. This information network is currently being expanded.

SENATOR ANDREWS: Section 6, Research and Technical Assistance program level will be cut 50 percent in FY 1986. Is this prudent, in light of the apparently increased need of transit agencies for technical assistance during the transition period?

ANSWER: The reduction in Research, Training and Human Resources is commensurate with the overall reduction in other transit assistance areas. The FY 1986 funding level of $24.6 million will provide adequate funding, although it represents a reduction from current levels. This amount will fund continued research in such areas as private sector transit alternatives, transit safety and security, financial planning and analysis, construction oversight, maintenance and human resources.

SENATOR ANDREWS: Would you provide for the record a more detailed breakdown of how the $17,597,000 in deferred funds will be used in the technical assistance program.

ANSWER: At this time, we are not able to provide a more detailed breakdown of activities which will be funded by the $17,597,000; however, as previously stated, emphasis will be given to activities in the areas of private sector transit alternatives, transit safety and security, financial planning and analysis, construction oversight, maintenance and human resources.

ELDERLY & HANDICAPPED

SENATOR ANDREWS: Why is the Administration proposing to increase funding for the 16(b)(2) elderly and handicapped program from $25 million in FY 1985 to $35 million in 1986? Please elaborate.

ANSWER: We believe this capital program is critical to maintaining adequate elderly and handicapped transportation services in both cities and rural areas. The $35 million budget level proposed for FY 1986 will assist in continuing those essential services for this needy population at a time when "main line" program resources are being reduced.

We do not propose to increase the authorization ceiling for this program. The proposed $35 million budget level is close to the current authorization level of for the Section 16(b)(2) program which is 3.5 percent of Section 21(a)(2), or $38.5 million.

Over the past several years, the demand for Section 16(b)(2) funds has far exceeded the annual budget for the program which has remained approximately $20-25 million since the beginning of the program in 1975. Several factors have contributed to this high demand. The cost of the widely used maxivan has increased by over 25 percent in the last few years. At the same time many of the vehicles purchased in the early years of the program are reaching the end of their useful life and agencies are requesting funds for replacement vans. New applicants must compete with these agencies for the limited resources.

SENATOR ANDREWS: What has been the obligation experience for this program? Please list for Fiscal Years 1983 and 1984 obligations (total) by State and estimates for Fiscal Years 1985 and 1986.

ANSWER: The fiscal year obligation levels for the Section 16(b)(2) program are as follows:

FY 1983	$24,049,570
FY 1984	$32,790,637
FY 1985 (est.)	$32,586,694
FY 1986 (est.)	$35,000,000

The attached tables show the fiscal year obligations by State.

ELDERLY AND HANDICAPPED PROGRAM OBLIGATIONS
FY 1983 and 1984

State	1983 Amount Obligated	1984 Amount Obligated	State	1983 Amount Obligated	1984 Amount Obligated
Alabama	529,620	$675,440	Nevada	151,556	171,252
Alaska	130,412	205,671	New Hampshire	163,296	332,796
Arizona	293,000	341,076	New Jersey	0	1,389,648
Arkansas	376,680	377,000	New Mexico	194,510	279,760
California	1,227,916	2,767,724	New York	1,680,000	1,680,000
Colorado	283,000	297,364	North Carolina	624,000	287,700
Connecticut	642,000	374,136	North Dakota	240,164	269,836
Delaware	117,128	240,884	Ohio	963,000	963,000
Dist. of Col.	189,000	428,000	Oklahoma	416,000	416,000
Florida	934,736	908,708	Oregon	300,532	335,132
Georgia	585,000	585,000	Pennsylvania	1,132,000	2,044,696
Hawaii	151,000	151,000	Rhode Island	189,600	97,644
Idaho	163,340	188,292	South Carolina	377,000	377,000
Illinois	1,020,000	1,020,000	South Dakota	189,000	189,000
Indiana	528,000	1,056,000	Tennessee	548,000	1,096,000
Iowa	377,000	386,010	Texas	841,076	1,960,348
Kansas	321,000	652,012	Utah	239,964	200,632
Kentucky	491,000	491,000	Vermont	151,000	165,076
Louisiana	528,000	591,204	Virginia	510,000	510,000
Maine	208,000	221,860	Washington	396,000	422,216
Maryland	792,000	408,372	West Virginia	321,000	321,000
Massachusetts	585,000	631,444	Wisconsin	471,000	929,840
Michigan	794,000	1,588,000	Wyoming	62,236	219,696
Minnesota	434,000	434,000	American Samoa	0	0
Mississippi	433,364	430,412	Guam	131,000	131,000
Missouri	590,480	1,036,768	Northern Marianas	0	0
Montana	170,000	182,216	Puerto Rico	617,312	1,107,896
Nebraska	255,648	170,116	Virgin Islands	0	53,760
			Total	$24,049,570	$32,790,637

Section 16(b)(2) Program

ELDERLY AND HANDICAPPED ESTIMATED OBLIGATIONS
FY 1985 and 1986

State	1985 Estimated Obligations	1986 Estimated Obligations	State	1985 Estimated Obligations	1986 Estimated Obligations
Alabama	510,000	625,486	Nevada	171,674	196,687
Alaska	195,584	139,088	New Hampshire	195,540	233,344
Arizona	343,196	460,129	New Jersey	734,562	1,061,239
Arkansas	381,560	476,384	New Mexico	344,732	253,238
California	1,851,428	2,776,666	New York	1,680,000	2,487,874
Colorado	299,054	392,333	North Carolina	960,300	804,834
Connecticut	376,579	511,404	North Dakota	186,921	207,511
Delaware	166,957	189,442	Ohio	1,926,000	1,405,446
Dist. of Col.	189,000	208,133	Oklahoma	416,000	532,373
Florida	1,666,544	1,919,404	Oregon	335,207	445,429
Georgia	585,000	715,001	Pennsylvania	1,464,204	1,766,337
Hawaii	357,829	208,212	Rhode Island	361,980	262,252
Idaho	233,470	224,469	South Carolina	377,000	453,226
Illinois	2,040,189	1,499,944	South Dakota	378,000	219,355
Indiana	530,872	748,389	Tennessee	548,000	712,438
Iowa	388,566	529,818	Texas	1,366,090	1,632,486
Kansas	333,029	444,518	Utah	201,088	241,866
Kentucky	982,000	593,765	Vermont	165,473	187,160
Louisiana	528,000	582,661	Virginia	510,000	679,759
Maine	222,817	275,233	Washington	425,126	585,971
Maryland	411,148	564,502	West Virginina	642,000	386,701
Massachusetts	636,409	910,481	Wisconsin	552,105	712,225
Michigan	794,000	1,134,750	Wyoming	151,254	163,729
Minnesota	899,173	625,969	American Samoa	101,210	50,934
Mississippi	868,000	452,507	Guam	131,000	127,950
Missouri	696,616	816,975	Northern Marianas	100,633	50,489
Montana	182,781	213,743	Puerto Rico	694,792	430,592
Nebraska	530,000	339,729	Virgin Islands	266,000	129,422
			Total	$32,586,692	$35,000,000

PLANNING

SENATOR ANDREWS: Under the administration's proposal, planning funds would be reduced from $50 million to $27.5 million. Of the $27.5 million, how much is provided to MPOs, SPOs and held at the Secretary's discretion?

ANSWER: We intend to follow essentially the percentage allocations used in recent years: 80 to 85 percent to Metropolitan Planning Organizations (MPO's) on the basis of a 1980 Census population based formula; approximately 10 percent to States also based on 1980 population figures; and 5 to 10 percent retained for discretionary use by the Administrator.

SENATOR ANDREWS: What is the effect of this reduced funding level? Why does the administration feel that this is an acceptable level?

ANSWER: We believe that a funding level of $27.5 million will provide an adequate resource for planning purposes commensurate with the significantly reduced size of the total UMTA program.

Since there is no significant reduction in the FHWA planning resource which supports the basic comprehensive transporation planning process jointly with UMTA, the impact of the reduced UMTA funding level will be cushioned with respect to these long-range activities. We would encourage a focus primarily on functional planning such as transit operations, financial management, equipment maintenance and replacement, etc., with the reduced resources.

SECTION 4(i) - INNOVATIVE TECHNIQUES

SENATOR ANDREWS: To whom, for what and at what cost were funds obligated in Fiscal Year 1984 for innovative techniques, to date for Fiscal Year 1985 and estimated for the rest of Fiscal Year 1985?

ANSWER: It is too early to estimate the total obligations for projects funded under Section 4(i) of the UMT Act for Innovative Techniques and Methods for the remainder of Fiscal Year 1985. The following charts identify, for Fiscal Year 1984 and Fiscal Year 1985 (as of April 23, 1985) respectively, the recipient and the funds obligated. The charts also contain a brief project description. These listings do not include projects obligated under the companion 3(a)(1)(C) new technology introduction program. Additional projects have been selected and announced, but not yet obligated.

FISCAL YEAR 1984 OBLIGATIONS

SECTION 4(i)--INNOVATIVE TECHNIQUES AND METHODS

GRANTEE/DESCRIPTION	OBLIGATION AMOUNT
ANCHORAGE, MUNICIPALITY OF DEVELOP PUBLIC-PRIVATE COOPERATIVE PROGRAM TO SERVE LOW DENSITY AREAS WITH COMMUTER AND SPECIAL TRANSPORTATION SERVICES.	200,000
COLORADO DEPARTMENT OF HIGHWAYS SUPPORT THE PURCHASE OF MICROCOMPUTER HARDWARE & SOFTWARE TO BE LOCATED AT SEVERAL TRANSIT OPERATIONS THROUGHOUT THE STATE.	130,240
DES MOINES, CITY OF - METROPOLITAN TRANSIT AUTHORITY TO PROVIDE ZONE FARE AND SERVICE MODIFICATIONS IN WEST DES MOINES, IOWA.	150,000
PEORIA, CITY OF - GREATER PEORIA MASS TRANSIT DISTRICT IMPLEMENT A PREPAID PASS PROGRAM INVOLVING A TIE INTO MERCHANT DISCOUNTS.	150,000
BI-STATE DEVELOPMENT AGENCY TO ASSIST IN FUNDING AN AUTOMATED FACILITIES MAINTENANCE MANAGEMENT PROGRAM.	206,250
NEW HAMPSHIRE, STATE OF - OFFICE OF COMPREHENSIVE PLANNING ESTABLISHMENT OF AN INNOVATIVE PUBLIC/PRIVATE TRANSIT SYSTEM IN SW NH.	30,000

FISCAL YEAR 1984

SECTION 4(i) CONT.

GRANTEE/DESCRIPTION	OBLIGATION AMOUNT
OHIO, STATE OF - NORTHEAST OHIO AREAWIDE COORDINATING AGENCY DEVELOPMENT OF A CONSOLIDATED AND COORDINATED SOCIAL SERVICE TRANSPORTATION NETWORK WITHIN THE NOACA REGION.	75,000
OKLAHOMA CITY, CITY OF THE CREATION OF BIKE AND RIDE LOTS WHERE USERS WILL RIDE THEIR BICYCLES TO THE LOTS AND USE TRANSIT.	141,330
TRI-COUNTY METROPOLITAN DISTRICT (TRI-MET) DEVELOPMENT OF SPECIAL MARKETING FOR NON-ENGLISH SPEAKING RIDERS AND ASSESSMENT OF NEED FOR AND FEASIBILITY OF A SPECIAL NEEDS TRANSPORTATION DISPATCH CENTER.	27,000
ALTOONA METRO TRANSIT, AMTRAN SPARE BUS PARTS CONSORTIUM CONSISTING OF FOUR REGIONAL TRANSIT PROVIDERS.	157,500
CARCOG, SE TENNESSEE DEVELOPMENT DISTRICT DEVELOPMENT OF PARATRANSIT SERVICES FOR THE COORDINATION OF SOCIAL AGENCY TRANSPORTATION IN THE CHATTANOOGA-HAMILTON COUNTY METROPOLITAN AREA.	88,440

FISCAL YEAR 1984

SECTION 4(i) CONT.

GRANTEE/DESCRIPTION	OBLIGATION AMOUNT
VERMONT, STATE OF - CENTRAL REGIONAL PLANNING COMMISSION	123,000
CONTRACT WITH THE CENTRAL VT TRANSPORTATION ASSOC. TO DEVELOP A PUBLIC TRANSIT SYSTEM IN CENTRAL VT.	
WASHINGTON STATE DEPT. OF TRANSPORTATION PLNG., RESRCH. & PUBLIC TRANSP. DIVISION	56,250
DRIVER TRAINING PROGRAM WHICH WOULD TEACH DEFENSIVE DRIVING, CPR, FIRST AID, PASSENGER ASSISTANCE AND COPING WITH STRESS.	
SEATTLE, MUNICIPALITY OF METROPOLITAN SEATTLE, METRO	12,750
SLIDE PRESENTATION FOR ELDERLY AND HANDICAPPED TRANSIT USERS.	
TOTAL	1,547,760

FISCAL YEAR 1985

OBLIGATIONS AS OF APRIL 23, 1985

SECTION 4(i)--INNOVATIVE TECHNIQUES AND METHODS

GRANTEE/DESCRIPTION	OBLIGATION AMOUNT
METRO DADE COUNTY TRANSPORTATION ADMINSTRATION	203,250
PROVIDE, THROUGH PRIVATE SECTOR THIRD PARTY CONTRACTUAL AGREEMENTS, TRANSPORTATION TO INNERCITY JOB SEEKERS FOR WHOM EXISTING PRIVATE AND PUBLIC TRANSPORTATION IS EITHER UNAVAILABLE OR INAPPROPRIATE.	
NEW YORK STATE DEPARTMENT OF TRANSPORTATION	435,660
DEVELOP AND IMPLEMENT A COMPREHENSIVE BUS MAINTENANCE TRAINING PROGRAM. THE PROGRAM WILL BE COORDINATED BY THE NEW YORK STATE DOT AND INVOLVE EIGHT TRANSIT AUTHORITIES THROUGHOUT THE STATE.	
TOLEDO AREA REGIONAL TRANSIT AUTHORITY	58,500
DEVELOP AND IMPLEMENT USER-SIDE BUS FARE SUBSIDY FOR ELDERLY PERSONS AS PART OF A NUTRITION PROGRAM SPONSORED BY THE OFFICE OF AGING.	
TOTAL	697,410

VALUE ENGINEERING

SENATOR ANDREWS: Under what account is the value engineering contract being funded? How much is the contract for, with whom, and when will the contract be completed?

ANSWER: UMTA's value engineering policy is to encourage the use of value engineering techniques on all construction projects and require it on new fixed guideway projects estimated to cost over $150,000,000. Implementation of this policy requires grantees to obtain the services of independent contractors to perform value engineering evaluations, hence, UMTA does not directly employ contractors to perform value engineering of capital projects.

UMTA is currently in the process of securing a single contractor to assemble Value Engineering guidelines. The cost and time frame for this effort has not been finalized.

BUS PROBLEMS

SENATOR ANDREWS: In February 1985 the Washington Metropolitan Area Transit Authority (WMATA) took its Neoplan buses out of service because of cracks in the undercarriages which WMATA officials said affected their safe operation. Last year the New York City Transit Authority (NYCTA) permanently removed 851 Grumman Model 870 Flexible buses from service, saying that it had lost confidence in the safety and reliability of these buses. Why are these types of problems occurring with buses?

ANSWER: The Neoplan buses have experienced problems involving the A-frame, front suspension and some electrical defects. The Grumman Model 870 buses experienced problems with the A-frame and the steering column. These problems appear to be related to the design and manufacture of the vehicles.

SENATOR ANDREWS: What is UMTA's role in preventing these problems and having corrective action taken?

ANSWER: The resolution of this issue properly rests with the purchaser and the vehicle manufacturer. UMTA is not a participant in these procurements except as a funding agency and plays no role in establishing or verifying the reliability of transit buses.

SENATOR ANDREWS: How does UMTA work with NHTSA on bus recalls?

ANSWER: UMTA works cooperatively with NHTSA in sharing safety information and in determining whether potential safety hazards may be present in the bus fleets. Once a recall has been initiated, UMTA monitors the bus safety recall at transit systems and encourages transit systems to participate in the recall to increase the safety and life span of the buses.

SENATOR ANDREWS: Has UMTA been involved with the problem Neoplan buses in Washington? If so, in what capacity? What role do you believe UMTA should take when problems like these occur?

ANSWER: UMTA has coordinated with NHTSA in reviewing the Neoplan bus problems in Washington. In cases of perceived safety problems, UMTA coordinates with NHTSA and other agencies with safety responsibilities, such as FRA and NTSB. in order to assist in the resolution of the safety issues.

SENATOR ANDREWS: What is the status of repairing the Neoplan buses? What has been the chronology of events surrounding their withdrawal from services?

ANSWER: Neoplan is currently working with Washington, D.C. and other transit systems to resolve the problem. The chronology of events surrounding the withdrawal of Neoplan buses from service in Washington, D.C., is as follows:

- In September 1984, Washington removed 38 of its 76 Neoplan buses from service due to structural failures/cracks in the A-frames. The buses were repaired by Neoplan and returned to service. NHTSA initiated an engineering analysis which revealed that the rear A-frame of one of the Washington Neoplan buses had collapsed and that, on another bus, a loose defroster unit had dropped causing damage to electrical wiring which resulted in a fire.
- In December 1984, NHTSA notified Neoplan of a potential safety hazard associated with the defroster unit and recommended that Neoplan issue a national safety recall of all of its buses to correct the problem. NHTSA also requested that Neoplan provide information on all A-frame structural problems experienced by purchasers of Neoplan buses as well as actions taken by Neoplan to address the problems. Neoplan responded that there was no need for a recall and agreed to provide the technical information requested.
- On December 23, 1984, an electrical system fire (unrelated to the defroster problems) occurred in a Neoplan bus operated by Washington.
- On February 7, 1985, Washington removed its entire fleet of 76 Neoplan buses from service, citing front suspension system safety problems.
- NHTSA announced on March 29, 1985 that Neoplan Corporation had agreed to conduct a voluntary safety recall to correct the safety problems in the buses.

SENATOR ANDREWS: Do you know if the problems experienced by other transit systems have been similar to those experienced in New York and Washington? If so, how have they resolved the problem?

ANSWER: Subsequent to the problems experienced by Washington of electrical fires and structural cracking in their Neoplan buses, UMTA contacted all transit authorities operating Neoplan buses to assess their experience with similar problems. Of the 1,933 buses surveyed, A-frame cracks were identified in 15 percent of the buses, 7 percent of the buses had cracks in the front suspension, and 1 percent had experienced electrical system fires. NHTSA announced on March 29, 1985 that Neoplan Corporation had agreed to conduct a voluntary safety recall to correct these problems in the buses.

SENATOR ANDREWS: Do transit agencies usually have warranties that cover such problems? Please elaborate.

ANSWER: Initially, UMTA funds the costs involved by the grantee personnel or its representatives at the manufacturer's facility for conducting continuous inspection, during the construction of the buses. This enables the grantee to assure itself that the vehicles are being built in accordance with the specifications which were advertised for bids and also to monitor the quality of the workmanship provided by the manufacturer.

The manufacturers on the other hand have a vested interest in seeing that the vehicles they build meet the required specifications and are of good quality. To ignore these requirements usually results in very adverse publicity for the manufacturer if major defects occur after the grantee places the buses in revenue service. Perception by the using public is a powerful force that the manufacturer cannot ignore, in addition to satisfying the operating property which is using and maintaining the buses.

UMTA encourages the grantees, through private trade organizations, to maintain lines of communication with each other and promote technical studies and test programs to convey to the bus manufacturer the extent of problems that arise to work with the manufacturers to arrive at mutually agreeable solutions. In addition, this action provides the manufacturers with up-to-date operating industry information which will aid them in redesign and modification to improve their products for the transit industry.

UMTA encourages, but does not mandate, that grantees specify warranties in their bus procurement specifications. We believe that part of the problem may lie in the need for vigorous enforcement of warranty provisions by grantees and we have encouraged such actions.

SENATOR ANDREWS: What is being done by UMTA and transit systems to detect problems with buses that have been purchased? What is being done by manufacturers, UMTA, and transit systems to prevent problems in the future? Does UMTA encourage or require warranties on rolling stock?

ANSWER: Two bus safety workshops have been conducted in a series and based upon these, the transit systems has placed the development of a bus safety reporting system as a high priority. The reporting system would provide for broad generic indicators of potential safety problems.

SENATOR ANDREWS: It would appear that large transit systems, like New York and Washington, are in a better position to detect problems with buses and to take corrective actions because they may have more resources with which to work. However, smaller systems might not have the resources to ensure quality control during the manufacturing process or detect problems with the buses after they are placed in service. What, if anything, is UMTA doing to assist the smaller bus systems?

ANSWER: UMTA assists smaller transit systems by providing safety and security training for bus and rail systems. Since the initiation of training in 1978, nearly 5,000 representatives from Federal, State and local agencies have received training in system safety and security fundamentals. Actions taken on broader problems such as the recent surveys of Neoplan and Grumman Flxible 870 buses result in safety solutions for both large and small agencies. UMTA is currently conducting workshops throughout the country to bring safety representatives together from bus transit systems to review industry safety concerns for the benefit of the local transit systems.

SENATOR ANDREWS: What are your views on the reliability of the buses that have been purchased during recent years? What is UMTA doing to ensure the reliability of the buses being purchased with Federal funds?

ANSWER: The issue of bus reliability is one that properly rests with the purchaser and the vehicle manufacturer. UMTA is not a participant in these procurements except as a funding agency and plays no role in establishing or verifying the reliability of transit buses. As a service to the industry, UMTA assisted the American Public Transit Association (APTA) in developing a "First Article Bus Test Plan." The Test Plan deals with tests addressing the safety, performance, structural durability and reliability of buses new to service in the United States or that include major changes in configuration or componentry. The test plan has been made available to the industry by APTA to be used on a voluntary basis by purchasers.

SENATOR ANDREWS: Do private bus companies have the same experience with their bus purchases?

ANSWER: UMTA does not have sufficient statistical data to draw any conclusions. UMTA does not generally collect the operating and maintenance experience of private operators. It would be reasonable to expect that both private and public bus operators would have similar experiences if the same equipment was purchased.

GRANT PROCEDURES

SENATOR ANDREWS: The Surface Transportation Asssistance Act of 1982 and UMTA guidelines for implementing the Section 9 program provided a number of features that were intended to simplify the preparation of grant applications by grantees and UMTA's review and approval of the applications. Examples include the use of a single grant application covering all of the projects the grantee proposed to fund and the use of self-certification. Has UMTA approved applications for fiscal year 1984 Section 9 funds faster that it approved applications for Section 3 and 5 funds in prior years? If not, what are the principal delays that still exist and what is being done to speed up providing funds to grantees?

ANSWER: In comparisons of the application review period requirements among the three programs, a distinction must be made between the formula programs--Sections 9 and 5--and the Section 3 discretionary capital program. Under the formula programs, as long as the applicant has funding available, the review process can begin when a complete application is received. On the other hand, since the Section 3 program is discretionary, UMTA cannot make final project selections and award grants without a sense of the nationwide pool of applications that will be made for those discretionary monies throughout the fiscal year.

Restricting the comparison of application processing requirements to the two formula programs--Sections 5 and 9--we find that significant time and paperwork savings are being achieved in the Section 9 program. For the most part, these savings are accruing to the applicant through reduced application preparation time rather than to UMTA in reduced review time. The consolidation of separate projects into a single "program of projects" eliminates the necessity for duplicate documentation with each project. From UMTA's standpoint, the required clearances such as Department of Labor 13(c) need only be obtained once for the entire "program of projects" rather than for each proposed project. Although the necessity for repeated clearances has been eliminated, the time required for the clearance itself has not been significantly altered.

SENATOR ANDREWS: What is the average length of time from the date UMTA receives an application until the grantee is able to spend cash for the Fiscal Year 1984 Section 9 program and the Fiscal Year 1983 Section 3 an 5 programs?

ANSWER: Because of basic differences in the programs, primarily discretionary funding decisions versus formula grant processing, Section 3 discretionary grant approvals always take longer than Section 5 or 9 formula program grants. Because fiscal year 1984 was a start-up year with major formula program changes from Section 5 to Section 9, statistical comparisons are premature at this time. However, the self-certifications provided in the Act for Section 9 simplify and shorten preaward reviews previously made for Section 5.

SENATOR ANDREWS: What percentage of grantees have submitted a single grant application covering all of their fiscal year 1984 Section 9 program? Has this process facilitated the processing of applications?

ANSWER: A sizeable number of grantees submitted single applications for Section 9 funds for multiple capital, operating and planning projects in fiscal year 1984. We expect that the proportion of single annual applications will grow as the grantees become familiar with the process and adjust their local processing and decision making to fit the new concept. In response to comments from the transit industry on our proposed procedures prior to the beginning of this new program, we made the single application a local option. Many grantees submitted an application early in fiscal year 1984 for operating assistance and later submitted an amendment to add capital projects, once local approvals and environmental clearances, for example, were complete for the capital projects.

SECTION 9 FUNDS

SENATOR ANDREWS: In how many states has the Governor reallocated Section 9 funds among small urbanized areas? What was the average amount transferred? Have instances occurred where the Governor has denied Section 9 funds to areas with a transit system?

ANSWER: During FY 1984, the Governor used the flexibility available in the Section 9 program to reallocate (transfer) funds among small urbanized areas in 20 states. The average amount shifted was $10,000,000. We would like to see the Governors make greater use of this flexibility. California, Michigan, Indiana, and West Virginia are good examples of states where Governors are utilizing the flexibility of the Section 9 programs. We are not aware of any instances where the Governor has denied Section 9 funds to areas with a transit system.

SENATOR ANDREWS: Why were fund transfers made? Are there any problems with transferring funds?

ANSWER: The transfers were made to target funds to urbanized areas where they were needed most to implement projects. We have not experienced any problems in transferring funds.

SENATOR ANDREWS: Does the 200,000 population limit for giving the Governor discretion to allocate Section 9 funds appear to be appropriate? Should the population limit be different? What are the pros and cons of changing the limit?

ANSWER: The flexibility of the Governor to transfer Section 9 funds among urbanized areas comprising the Governor's apportionment is a very positive provision. It enables the funds to be used in areas where they are needed most. The issue of whether to raise the 200,000 population limitation is currently being analyzed. Con: The urbanized areas would not be guaranteed the use of a specific dollar amount. Pro: The Governor would be given more authority to target funds where they are needed most.

SENATOR ANDREWS: All areas, including small urbanized areas, are entitled to Section 9 funds even if they do not have a mass transit system. Which urbanized areas without mass transit service are entitled to Section 9 funds? How much were these areas entitled to receive during Fiscal Year 1984?

ANSWER: A recent survey of UMTA's regional offices revealed that the following UZA's did not have mass transit service in FY 1984:

REGION	UZA	FY 1984 SECTION 9 APPORTIONMENT (Dollars)
III	Danville, VA.	439,696
	Monesson, PA.	506,617
	Steubenville - Weirton, Ohio, PA., W.VA.	376,243
IV	Huntsville, AL (large ridesharing program)	1,005,171
	Anniston, AL	490,096
	Florence, AL	497,485
	Dothan, AL	357,356
	Fort Worth Beach, FL	605,835
	Winter Haven, FL	539,609
	Fort Pierce, FL	481,133
	Naples, FL	344,335
	Warner Robins, GA	437,936
	Pascagoula-Moss Point, MISS.	441,825
	Jacksonville, NC	480,655
	Concord, NC	486,177
	Burlington, NC	490,451
	Hickory, NC	407,247
	Goldsboro, NC	382,140
	Rock Hill, SC	349,805
	Subtotal	9,119,812

REGION	UZA	FY 1984 SECTION 9 APPORTIONMENT (Dollars)
V	Kokomo, Ind.	621,512
VI	Fayetteville-Springdale, ARK.	394,686
	Fort Smith, Okla.	587,827
	Houma, LA.	450,695
	Lawton, Okla.	756,292
	Las Cruces, N.M.	433,919
	Bryan-College Station, TX	645,735
	Harlingen-San Benito, TX	503,958
	Killeen, TX	766,115
	Longview, TX	482,713
	McAllen, TX	1,464,798
	Odossa, TX	891,533
	Temple, TX	345,936
	Texarkana, TX	300,573
	Texas City, TX	665,142
	Tyler, TX	608,330
	Victoria, TX	474,437
VII	Joplin, MO.	371,858
VIII	Bismarck-Mandan,N.D.	509,470
	Cheyenne, Wy.	501,258
IX	Yuma, AZ	488,902
	Subtotal	12,265,689
	Total	21,385,501

SENATOR ANDREWS: What are the pros and cons of excluding urbanized areas with little or no mass transportation service when determining the amount of funds each urbanized area receives?

ANSWER: Under the Section 9 program, funds are apportioned to the Governors based on population and density of the areas under 200,000 population in their States. If areas do not have transit the Governor has the flexibility to direct funds to areas that have transit services and are in need of funds.

The major advantage to the exclusion would be that Federal scarce transit funding would be directed to areas in need of transit funding.

The major disadvantage to the exclusion is that small areas without transit service would not be guaranteed funding for acticipated future transit services.

SENATOR ANDREWS: Section 9 funds are allocated to all urbanized areas. In some states, funds can be transferred from those areas with little or no transit service to those areas that provide service, thereby increasing the funds above the formula amount for those areas. From a policy standpoint, is it equitable that the small urban areas in some States have the potential for receiving more Section 9 funds than similar small urban areas in other States?

ANSWER: There is some inequity in the situation you describe. However, where this has accured there are valid transit needs for which the transferred funds have been used. Also, if funds are not used after four (4) years, they are to be recycled to the benefit of all areas.

SENATOR ANDREWS: What changes, if any, in the law should be made to provide for a more even distribution of Section 9 funds among urbanized areas with transit systems?

ANSWER: We believe that the current formula adequately apportions funds amoung areas with transit. In the past, we have proposed formulas which give additional weight to service-based factors and less to population and population density. These formulas were not accepted, however.

DULLES LIGHT RAIL PROPOSAL

SENATOR ANDREWS: What, if any, involvement has UMTA had in the proposals to develop a light rail line to Dulles Airport?

ANSWER: The Urban Mass Transportation Administrator has had no involvement in the development of the proposals for a light rail line to Dulles Airport. Our role is to facilitate the use of the highway right-of-way consistent with the needs of the involved jurisdictions. Two separate proposals have been prepared by private investors seeking to implement passenger service to Dulles Airport from West Falls Church. We support such proposals and encourage the development of private sector initiatives in other areas of the nation. By the very fact that these proposals involve non-Federal funds, our involvement is minor.

SENATOR ANDREWS: Has UMTA taken a position on any of the proposals?

ANSWER: No. The Federal Government has not taken a position on any of the proposals. We will not be soliciting, reviewing or analyzing proposals from land developers, particularly since the ultimate decision on transportation service and land development rests primarily with the local jurisdictions and there are no direct Federal capital or operating funds involved.

SENATOR ANDREWS: Does UMTA believe that there is a potential to build a rail project to Dulles without Federal financial assistance?

ANSWER: There has been a number of studies to date on improving access to Washington Dulles International Airport. None of the previous studies, however, has examined the potential for private sector initiative to plan, design, construct, own and operate such a facility. Two independent proposals have been developed by private investors for implementing passenger service in the Dulles Access Road corridor. The proposals are well-documented and the land developers are prepared to move forward with implementation. Since there are no Federal capital or operating funds requested by either investment group, the potential to build a rail project to Dulles without Federal assistance is quite real.

SENATOR ANDREWS: Would it be possible to build a rail project elsewhere without Federal assistance? Have any been built in recent years or are any being proposed?

ANSWER: From a national policy perspective, the Dulles project is extremely important and we see this project serving as a "showplace" for the rest of the country pointing out what the private sector can do if given the opportunity. We have already received inquiries from other ares seeking to replicate the Dulles model including Los Angeles and Chicago. The principles and procedures are directly transferable.

In numerous locations around the country, community developers have taken the lead in planning, funding, building and operating public transit facilities. For example, Orange County, Florida has entered into a preliminary franchise agreement with MATRA, a private firm, to build a 12-mile rail system connecting Disney World with International Drive. A group of private business leaders in Pittsburgh has banded together to initiate the preliminary planning of a 1-2 mile people mover that would be privately funded and would cross the Allegheny River to connect downtown Pittsburgh with the area east of Three Rivers Stadium. Private developers in Las Colinas, Texas, a development of 10,000 residents and 80,000 employment population near Dallas, are planning to build a 4-mile, 17-station people mover for internal circulation completely out of private funds. A Ft. Lauderdale Downtown People Mover is currently under construction without Federal funds. A private developer in Tampa has almost completed a one-half mile elevated people-mover connecting their harbor island development of office and residential community with downtown Tampa. Dallas is currently studying a proposed 140 - 160 mile light rail system to be funded out of their 1-cent sales tax.

There are many more fine examples of projects being implemented without Federal funds. The point is that the private sector is ready, willing, and able to return to transportation development and operation in a big way.

HANDICAPPED REGULATIONS

SENATOR ANDREWS: UMTA issued proposed regulations on elderly and handicapped on September 8, 1983. Final regulations have not been promulgated. What is the status of the proposed regulations?

ANSWER: The UMTA portion of the Department's Elderly and Handicapped regulation is being revised as required by section 317(c) of the Surface Transportation Assistance Act of 1982. The Department's Office of the Secretary has the responsibility within the Department for issuing the revised rule. Since the rule will affect only UMTA's recipients, UMTA staff are working closely with the Office of the Secretary on the revision. The Department plans to issue a final rule in mid-calendar year 1985.

SENATOR ANDREWS: Is UMTA planning to modify the proposed regulation prior to issuing the final rule? If so, describe the changes that will be made and why the changes will be made.

ANSWER: On September 8, 1983, the Department of Transportation published a notice of proposed rulemaking (NPRM) that proposed to revise the provisions in the Departmental Section 504 regulation that address the provision of service to elderly and handicapped persons by UMTA recipients. Under the current interim final rule, an UMTA recipient must certify that special efforts are being made in its service area to provide transportation that handicapped persons can use.

The NPRM would require an UMTA recipient to provide service for elderly and handicapped persons that meets six specified service criteria. The recipient could elect to provide the service by accessible bus, paratransit, or a combination of these modes, but would not have to spend in excess of a cost cap to provide the service. In addition, the NPRM would require the recipient to consult with handicapped individuals and groups representing them before deciding what service to provide and to submit annual reports to UMTA.

The Department received more than 650 comments on the NPRM. The Department has reviewed and analyzed these comments and is taking them into consideration as the final rule is written. Since the Department is in rulemaking, however, the Administrative Procedure Act prohibits any discussion of specific modifications that we are considering.

SENATOR ANDREWS: What impact will a reduction or phaseout of Federal operating subsidies have on the ability of transit properties to adhere to section 504 regulations?

ANSWER: The current DOT interim final rule implementing Section 504 requires UMTA recipients to ensure that special efforts are being made in their service area to provide transportation that handicapped persons can use. This requirement would be changed in the new regulation required by Section 317(c) of the STAA of 1982 to require the service for handicapped persons to meet service criteria. This will ensure that the service for the handicapped is more comparable to the service for the general public.

The fiscal year 1986 funding proposed by the Administration will be used to provide a minimum transit infrastructure for emergency needs and will assure assistance for those especially in need of transit services, such as elderly and handicapped persons. They will be available to fund the capital cost of the equipment needed to provide service to elderly and handicapped persons under DOT's Section 504 regulation. The operating expenses of this equipment, like the operating expenses needed to provide service to the general public, is a local responsibility.

Since service for elderly and handicapped persons is a priority of UMTA's recipients, we are confident that the localities will ensure that the necessary operating funds are provided.

SENATOR ANDREWS: The cost of providing special services for elderly and handicapped persons can be high and utilization can be low regardless of the type of service provided (e.g. accessible fixed-route bus service versus demand-responsive van service). What steps can transit properties take to provide more cost-effective service for elderly and handicapped persons?

ANSWER: We recognize that each locality's decision regarding the type of transportation service to be provided for the handicapped and elderly will be dependent on the characteristics of the area and its population. For some areas fixed route accessibility is the most cost-effective solution, while in other areas, paratransit services are more cost effective and more appropriate. Some localities have decided on a combination of approaches.

For those areas providing demand responsive services, contracting out services to private transportation providers, such as taxi opertors, can often reduce costs. Likewise, user-side subsidies have proven to be less expensive than dedicated paratransit services up to a certain threshold volume of riders. In all areas, local officials should ensure that the resources spent on transportation for the elderly and handicapped from the various Federal, State and local programs are used in a coordinated fashion to avoid duplication or overlap of services.

Each transit property should take a careful look at services it is supporting as well as other services in the community to determine where increases in efficiency and productivity can be made.

SENATOR ANDREWS: Have any of UMTA's demonstration grants addressed ways to provide more cost effective service to the elderly and handicapped? If so, comment on some of the strategies that have proven to be effective.

ANSWER: A number of demonstration grants have evaluated more cost effective service for the elderly and handicapped. The user-side subsidy concept involves private suppliers, enables the user to select the lowest cost supplier and introduces competition into the supply side. The use of volunteer drivers and vans as well as the use of paratransit vehicles and shared ride services have all served to reduce

E & H transportation costs. A number of projects involving the coordination of social service transportation have shown that service for elderly and handicapped persons can be improved, often at lower cost by pooling resources and using private transportation companies.

SENATOR ANDREWS: In recent years the concept of user-side subsidies has gained attention as a potentially viable strategy for addressing the growing operating deficits of transit properties. Has UMTA sponsored any projects in which user-side subsidies (e.g., discount vouchers) were used to accommodate the transportation needs of the elderly and handicapped? If so, what can the transit industry learn from the projects?

ANSWER: UMTA pioneered in this area by sponsoring four demonstration projects involving user-side subsidies and by documenting the results of several more locally initiated user-side subsidy projects which followed the UMTA lead. This information was distilled into a planning manual that was widely distributed to agencies interested in using the concept. The projects showed very clearly that in many cases the competitive marketplace can be used to provide a higher level of transportation service for elderly and handicapped persons at a lower cost than fleets of vehicles run by transit authorities. The concept is easy to administer and is an effective way to reach those people most in need of improved mobility.

SENATOR ANDREWS: Do you believe the provision of user-side subsidies can have industry-wide applicability?

ANSWER: UMTA funded and completed four user subsidy projects in Kingston, North Carolina; Lawrence, Massachusetts; Danville, Illinois; and Montgomery, Alabama. These projects were successful and showed the user subsidy to be easy to implement, easy to administer and a relatively inexpensive technique to improve the mobility of target groups such as elderly and handicapped persons. It has the added advantage of facilitating private operator involvement in transit services. In addition we have documented a locally funded user subsidy project in Seattle, Washington.

A recent study conducted by the Transportation Systems Center has found over 100 cities where the user subsidy has been adopted. Not only has the technique provided economical means to provide transportation, but it is a convenient means of using existing private sector resources without cumbersome contracting procedures.

SENATOR ANDREWS: In UMTA's report on the status of public transportation reference is made to the growing shift of elderly people to the suburbs. How will this shift the transit industry's ability to effectively address the mobility needs of the elderly?

ANSWER: The mobility needs of people in the suburbs, particularly elderly people, cannot be met easily with fixed route transit service. More flexible approaches are needed, and the work that UMTA has performed in paratransit services, user-side subsidies and coordination of social service transportation provided models for supplying this flexibility. Numerous transit operators have already developed more personalized service to meet the mobility needs of suburban residents, and we expect this trend to continue. It is anticipated that there will be a growing use of private sector transportation providers and volunteers with the transit operator acting as systems manager.

SENATOR ANDREWS: What service adaptions, if any, should transit operators consider in view of these geographic shifts?

ANSWER: Transit operators should consider the use of more flexible services and the incorporation of private operators and volunteers into the total transportation system. Transit operators should move away from being sole providers of transportation to being brokers that use the most efficient service available from a public or private sector operator to meet identified mobility needs. Approaches include demand responsive service operated by the transit agency or by a contractor, coordination of social service transportation, user-side subsidies and volunteer services.

SENATOR ANDREWS: What impact will these shifts have on the costs of providing transit services?

ANSWER: Any time new services are added to a transportation system, the cost will increase. As the population of elderly people spreads out, it will cost more to serve them. However, by using more flexible approaches and brokering services, the cost of providing the needed mobility will be considerably less than if the service were provided in a conventional manner. Furthermore, to the extent that fixed route services which are underutilized are replaced with more flexible innovative approaches, financial savings may accrue.

SENATOR ANDREWS: What assurance do you have that State and local governments will continue to provide for the mobility needs of the elderly and handicapped if Federal operating subsidies are eliminated?

ANSWER: The mobility problems and needs of the elderly and handicapped are among the potential market segments that public officials consider in determining the scope and pricing of public transportation services to be provided or assisted. This will continue--whether or not Federal operating assistance is available. Moreover, the Administration's budget proposes a 40 percent increase in capital funding for the Section 16(b)(2) program which assists private, non-profit organizations providing service for the elderly and handicapped.

Because of the existence of Federal operating assistance, the requirements of Section 504 of the Rehabilitation Act of 1975 have been made applicable to the operation of transit systems assisted with UMTA funds. In the absence of Federal operating assistance, it may be necessary to change these requirements.

TRIENNIAL REVIEWS

SENATOR ANDREWS: The Surface Transportation Assistance Act of 1982 (P.L. 97-424) amended the Urban Mass Transportation Act to require DOT to conduct Triennial Reviews for grant recipients. In the GAO report entitled, "UMTA Needs Better Assurance That Grantees Comply With Selected Federal Requirements", (GAO/RCED-85-26, February 19, 1985). GAO reported that it was not able to learn (1) who will conduct these reviews, (2) which specific compliance requirements will be examined, (3) when these reviews will occur, or (4) how many reviews will be done each year, because UMTA had not decided on how it will conduct these reviews. When does UMTA plan to begin conducting triennial reviews? Who will conduct the reviews?

ANSWERS: We are aware of the GAO report but in fact the triennial review process is proceeding on schedule. Procedures for the reviews were developed and tested during the Summer of 1984. The reviews examine Section 9(e)(3) Self Certifications as well as other major Statutory and Administrative requirements that apply to Section 9 grantees. Six pilot reviews were performed during the months of August through November 1984. Grantees reviewed were Albany, NY, Baltimore, MD, Huntington, W. WA, Columbus, OH, Detroit, MI and Cedar Rapids, IA. The triennial reviews are being conducted by UMTA Regional Staff. Formal training was provided to UMTA staff in December, 1984 and January 1985. Additionally, a triennial review information systems has been developed which will provided updated information on the status of the triennial review process. It provides a stadardized mechanism for tracking, monitoring and analyzing the triennial reviews of each grantee. The results will provide UMTA with valuable information to help focus on future program guidance. Each year we plan to conduct reviews of one third of Section 9 recipients, or approximately 120 grantees.

SENATOR ANDREWS: Which requirements will be examined during the reviews? Describe the type of emphasis that will be given to each requirement?

ANSWER: The statutory and administrative requirements examined during the triennial reviews are:

Section 9(e)(3) Self Certifications

Legal capacity
Financial capacity
Technical capacity
Continuing control of the Federal investment
Maintenance
Elderly and Handicapped half-fare
Medicare half-fare
Competitive procurment
Buy America
Compliance with Program of Projects
Availability of local share Planning
Elderly and handicapped special efforts
Public comment process on fare/service changes

Other Major Statutory and Administrative Requirement That Apply to Section 9 Recipients

Section 3(e) private enterprise participation
Section 3(f) charter bus
Section 3(g) school bus
Section 13(c) labor standards
Section 15 data methodology, reporting and data verification
Section 19/Title VI/non-discrimination, 49 CFR Part 23, as amended
Section 22 safety
Section 106 historic preservation
Section 504 non-discrimination of handicapped
Relocation and land acquisition
Davis Bacon Act NEPA environmental concerns
OMB Circular A-102 (pertinent attachments)

Emphasis will be placed on each requirement to the extent that UMTA is reasonably assured that the objectives of the triennial reviews are being met. The objectives are:

- Ensure Congress, UMTA and other Authorities that adequate program management safeguards are in place;
- Confirm reasonable acceptability of grantee performance in carrying out Section 9 grants in light of self-certifications an UMTA administrative requirements;
- Identify needed improvements in recipients grant management practice and mobilize UMTA resources to assist in corrective action when warranted; and
- Enhance UMTA's own program management and reporting capabilities without undue intrusion into grantee program responsibilities.

SENATOR ANDREWS: How many reviews will be conducted each year?

ANSWER: We plan to complete 119 reviews by the end of fiscal year 1985. For subsequent fiscal years we plan to conduct a review of one third of Section 9 recipients. This number; approximately 120; will include a mixture of small, medium and large grantees. Attached for your information is the triennial review workplan for fiscal year 1985.

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Triennial Review Work Plan for Fiscal Year 1985 as of 3/1/85

Regional Office	Grantee	Location	Mode	Desk Review	Site Visit
				January	
URO-2	NFTA	Buffalo, NY	Rail/Bus	1/7-8	1/10
URO-8	RTA	Denver-Boulder, CO	Bus	1/21	1/28
URO-10	C-Tran	Vancouver, WA	Bus	1/15	2/1
URO-4	METRA	Columbus, GA	Bus	1/15	2/21-22
URO-9	BART	Oakland, CA	Rail	1/25	2/27
URO-9	CCCTA	Walnut Creek, CA	Bus	1/25	3/20
				February	
URO-7	Des Moines MTA	Des Moines, IA	Bus	2/1	2/26-27
URO-8	City of Col. Springs	Colorado Springs, CO	Bus	2/20	2/22
URO-5	Milwaukee County	Milwaukee, WI	Bus	2/12-13	2/19-20
URO-1	MART	Fitchburg, MA	Bus	2/20	N.A.
URO-1	BAT	Brockton, MA	Bus	2/25	N.A
URO-5	Southwest Ohio RTA	Cincinnati, OH	Bus	2/8-14	3/18-19
URO-5	Miami Valley TA	Dayton, OH	Bus	2/8	3/18
URO-5	Rockford MTA	Rockford, IL	Bus		2/15
URO-10	Kitsap	Bremerton, WA	Bus	2/15	3/14
URO-4	MTA	Mobile, AL	Bus	2/4	3/5-7
URO-4	MCTA	Gulfport, MS	Bus	2/4	3/5-7
URO-3	City of Annapolis	Annapolis, MD	Bus	2/4	3/8
URO-9	Samtrans	Burlingame, CA	Bus	2/22	3/21
URO-9	CCCTA	Walnut Creek, CA	Bus	2/28	3/20
URO-3	Capital AT	Harrisburg, PA	Bus	2/21	3/22
URO-4	CARTA	Chattanooga, TN	Bus	2/25	3/26-28
URO-4	Knoxville, TA	Knoxville, TN	Bus	2/25	3/26-28

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Regional Office	Grantee	Location	Mode	Desk Review	Site Visit
URO-9	Fresno	Fresno, CA	Bus	2/22	3/27
URO-6	Santa Fe/Albuquerque	Santa Fe, NM	Bus	2/21	
URO-6	Brownsville	Brownsville, TX	Bus	2/11	3/5
URO-6	Laredo	Laredo, TX	Bus	2/11	3/8
URO-6	Austin	Austin, TX	Bus	2/22	4/25
URO-8	Sioux Falls	Sioux Falls	Bus	2/25	2/28
URO-5	Springfield MTD	Springfield, IL	Bus	2/25	3/25-26
URO-5	City of Decatur	Decatur, IL	Bus	2/25	3/25-26
				March	
URO-5	Saginaw Transit Sys.	Saginaw, MI	Bus	3/22	4/22-23
URO-5	St. Cloud MTC	St. Cloud, MN	Bus	3/8	4/8-9
URO-1	GATRA	Attleboro, MA	Bus	3/12	N.A.
URO-7	City of Coralville	Coralville, IA	Bus	3/4	3/20
URO-7	Univ. of Iowa	Iowa	Bus	3/4	3/20
URO-2	CNYRTA	Syracuse, NY	Bus	3/18-19	3/21
URO-2	Onondaga	Syracuse, NY	Bus	3/19	N.A
URO-1	RIDOT	Providence, RI	Bus	3/22	N.A
URO-1	WRTA	Worcester, MA	Bus	3/26	N.A
URO-10	Salem MTD	Salem, OR	Bus	3/15	4/1
URO-10	Rogue Valley	Medford, OR	Bus	3/15	4/1
URO-6	Dallas TS	Dallas, TX	Bus	3/7-8	4/8-9
URO-9	Honolulu	Honolulu, HI	Bus	3/15	4/17
URO-3	Lehigh and Hampton TA	Allentown, PA	Bus	3/13	4/15
URO-4	CTS	Charlotte, NC	Bus	3/18	4/16-18
URO-4	City of Gastonia TD	Gastonia, NC	Bus	3/18	4/16-18
URO-6	New Orleans	New Orleans, LA	Bus	3/18-20	4/29
URO-9	Santa Rosa	Santa Rosa, CA	Bus	3/22	4/24

Regional Office	Grantee	Location	Mode	Desk Review	Site Visit
URO-6	San Antonio - VIA	San Antonio, TA	Bus	3/21-22	4/22-24
URO-2	RGRTA	Rochester, NY	Bus	3/11-12	3/14
URO-9	Phoenix	Phoenix, Az	Bus	3/8	4/9
URO-9	Tucson	Tucson, AZ	Bus	3/8	4/10
URO-5	MTC	Minn/St. Paul, MN	Bus	3/8	4/8-9
URO-5	MTA	Flint, MI	Bus	3/22	4/22-23
				April	
URO-1	PVTA	Springfield, MA	Bus	4/19	N.A.
URO-1	CCTA	Burlington, VT	Bus	4/30	N.A.
URO-7	City Utilities	Springfield, MO	Bus	4/12	5/6-7
URO-10	Community Transit	Lynwood, WA	Bus	4/5	5/1
URO-6	MRBA Jefferson	Bernard Parish, LA	Bus	4/1-3	5/1-3
URO-3	Greater Lynchburg TA	Lynchburg, VA	Bus	4/5	5/3
URO-6	Little Rock T	Little Rock, Pine Bluff, AR	Bus	4/8-10	5/6-9
URO-3	PAT	Pittsburgh, PA	Rail/Bus	4/5	5/6
URO-3	Beaver County TA	Beaver, PA	Bus	4/5	5/7
URO-4	SCATA	Sarasota, FL	Bus	4/8	5/7-9
URO-4	Manatee CTD	Bradenton, FL	Bus	4/8	5/7-9
URO-9	Sacramento	Sacramento, CA	Bus	4/5	5/8
URO-6	Austin	Austin, TX	Bus	4/8-10	5/8-10
URO-9	HATA	Yuba City, CA	Bus	4/5	5/9
URO-5	MRTA	Akron, OH	Bus	4/6	5/6-7
URO-5	City of LaCrosse	LaCrosse, WI	Bus	4/20	5/20-21
URO-5	Canton RTA	Canton, OH	Bus	4/6	5/6-7
URO-9	Woodland	Woodland, CA	Bus	4/5	5/10

Regional Office	Grantee	Location	Mode	Desk Review	Site Visit
URO-3	PTD Commission	Hampton, VA	Bus	4/12	5/13
URO-4	Dade County TA	Miami, FL	Rail/Bus	4/29	5/28-30
URO-4	Broward County MTD	Ft. Lauderdale, FL	Bus	4/29	5/28-30
URO-9	Reno	Reno, NV	Bus	4/26	5/29
URO-5	Eau Claire	Eau Claire, WI	Bus	4/20	5/20-21
				May	
URO-2	NJTC, Newark	NE NJ/NY	Rail/Bus	5/22-23	5/24-26
URO-7	KCATA	Kansas City, MO	Bus	5/21	6/19-20
URO-10	Boise Transit	Boise, ID	Bus	5/15	6/1
URO-6	Beaumont Port Arthur	Beaumont, TX	Bus	5/6-8	6/5-7
URO-8	City of Fargo	Fargo, ND	Bus	5/6	6/10
URO-8	City of Moorhead	Moorhead, MN	Bus	5/8	6/11
URO-6	Houston	Houston, TX	Bus	5/13-15	6/11-13
URO-8	City of Grand Forks	Grand Forks, ND	Bus	5/13	6/12
URO-8	City of E. Grand Forks	E. Grand Forks, MN	Bus	5/15	6/13
URO-4	HARTA	Tampa, FL	Bus	5/20	6/18-20
URO-4	PSTA	Clearwater, FL	Bus	5/20	6/18-20
URO-9	Golden Gate	San Francisco, CA	Ferry	5/17	6/19
URO-3	Bur. of Transportation	Williamsport, PA	Bus	5/23	6/24
URO-3	JAUNT, Inc.	Charlottesville, VA	Bus	5/27	6/27
URO-3	City of Charlottesville	Charlottesville, VA	Bus	5/29	6/28
URO-3	Erie MTA	Erie, PA	Bus	5/5	7/8
URO-1	MBTA	Boston, MA	Rail/Bus	5/15	N.A
URO-5	Fort Wayne PTC	Fort Wayne, IN	Bus	5/3	6/3-4
URO-5	South Bend PTC	South Bend, IN	Bus	5/3	6/3-4
URO-5	City of Niles	Niles, MI	Bus	5/3	6/3-4
URO-5	Gary TC	Gary, IN	Bus	5/17	6/17

Regional Office	Grantee	Location	Mode	Desk Review	Site Visit
				June	
URO-5	CATA	Lansing, MI	Bus	6/8	7/8-9
URO-2	NYMTA	NE NJ/NY	Rail/Bus	6/27-28	6/29-30
URO-2	City of Owensboro TS	Owensboro, KY	Bus	6/10	7/9-11
URO-4	TA of River City	Louisville, KY	Bus	6/10	7/9-11
URO-3	Cambria County TA	Johnstown, PA	Bus	6/7	7/10
URO-9	San Diego T	San Diego, CA	Bus	6/7	7/10
URO-9	North County T	Oceanside, CA	Bus	6/7	7/10
URO-5	Ann Arbor TA	Ann Arbor, MI	Bus	6/8	7/8-9
URO-5	City of Appleton	Appleton, WI	Bus	6/16	7/16-18
URO-5	City of Green Bay	Green Bay, WI	Bus	6/16	7/16-18
				July	
URO-5	Central Ohio TA	Columbus, OH	Bus	7/16	8/16-17
URO-10	Pierce Transit	Tacoma, WA	Bus	7/1	7/15
URO-4	Greenville TA	Greenville, SC	Bus	7/1	7/30-31 & 8/1
URO-4	Augusta PT	Augusta, GA	Bus	7/1	7/30-31 & 8/1
URO-4	East Volusia County	Daytona Beach, FL	Bus	7/22	8/20-22
URO-4	Jacksonville TA	Jacksonville, FL	Bus	7/22	8/20-22
URO-5	Champaign-Urb. MTD	Champaign-Urban, IL	Bus	7/5	8/5-6
URO-5	Bloomington-Normal PTS	Bloomington - Normal, IL	Bus	7/5	8/5-6
				August	
URO-2	Bridgeport	Bridgeport, CT	Bus	8/19-20	8/22

SENATOR ANDREWS: What impact, if any, have the proposed budget cutbacks had on your plans for conducting triennial reviews?

ANSWER: Our plans for conducting triennial reviews have not changed. We intend to continue to simplify grant approval procedures, including greater involvement of the states in allocating formula funds among smaller urbanized areas, thereby reducing the caseload of direct grants made by UMTA. Also the program of projects concept now permiting one application where many were previously required. We may also consider an automated application process. These measures will reduce the grant-making burden and should still permit us to handle the triennial review work with a reduced staff. It will be necessary to review headquarters and regional office roles for this function, as well as for others, and possibly to consider contractual services and reimbursible agreements for some functions in order to have non-transferable functions such as the triennial review performed by the reduced staff.

OFFICE OF PRIVATE SECTOR INITIATIVES

SENATOR ANDREWS: Recently UMTA formed the Office of Private Sector Initiatives to provide focus and leadership in UMTA's efforts to expand the role and responsibility of the private sector in providing cost-effective public transportation. How many people are in this office?

ANSWER: Three professional and one support employees, assigned from the existing personnel complement.

SENATOR ANDREWS: What is the budget from FY 1986 for this office staffing and personnel versus non-personnel costs?

ANSWER: The Office of Private Sector Initiatives is comprised of four positions: three professional and one secretarial. Personnel and non-personnel costs are not broken out at this time.

SENATOR ANDREWS: What types of involvement does UMTA expect that the private sector will have in mass transit?

ANSWER: We expect to see private sector involvement in transit in three basic areas. Private operators will seek out types of service, such as commuter bus, which they can provide at a profit. Other private service will be under contract to a community at a lower rate of subsidy. Experience in many communities has shown that low density, week-end, and demand-response types of service readily lend themselves to private provision.

Businesses and employers are increasingly focusing on the demand for transit. Ridersharing programs, parking policies, specialized subsidies, transit planning, political support for agreed upon strategies, are examples of some of the activities being undertaken by this component of the private sector in various communities across the country.

Developers increasingly are agreeing to bear some of the costs of transit projects from which they directly benefit. For example, some have agreed to share in the cost of station construction or reconstruction, others have entered into agreements to provide some form of transit service for new projects.

It is important to note, however, that the mix of private sector involvement in transit will differ from community to community. No two communities have identical needs, resources, geography, or traditions. The advantage of increasing the role of the private sector is the variety of options thus made available.

SENATOR ANDREWS: Why would the private sector become involved with an industry that has not been profit making during recent years and shows no indication of becoming profit making in the foreseeable future?

ANSWER: Our interest in seeking greater involvement by the private sector in transit is to reduce the overall transit operating deficit and to improve the service made available. The attractions to the private sector are as varied as the private sector is varied. Private operators can provide some service, such as commuter bus, at a profit and without a subsidy. Other service can be contracted with a private operator at a lower subsidy level, typically 20-60 percent lower according to recent studies. Employers and businesses have a stake in their community's transit network. In Hartford, for example, employers and community and business leaders have joined together to develop a coordinated transit strategy for that city that includes public transit, ridersharing, staggered work hours, parking restrictions and the like. Developers are also directly concerned with transit. In several communities, such as Los Angeles, developers have agreed to help fund transit improvements in recognition of the benefits they derive from them.

We believe that with the public and private sectors focusing on their interest in an effective transit network a more realistic market segmented approach to transit will develop. The result will be better transit service for more people at a lower cost to the taxpayer.

SENATOR ANDREWS: How will the efforts being undertaken by UMTA coordinate with private sector involvement already underway at the local level?

ANSWER: We fully expect that our efforts to encourage greater use of the private sector in transit will act to reinforce existing local government's desire to reduce costs through their involvement. The Department's policy statement on Private Enterprise Participation in the UMTA Program is process oriented, we do not seek to mandate any particular strategy. Our policy stresses early and regular consultation with the private sector in the local planning process and stresses consideration of private providers when new service is being developed or existing service is being restructured. We stress in the Statement that exactly how this should be done is a local decision, including the process governing complaints and oversight function.

With this degree of flexibility in our policy, I forsee a very smooth interface between our efforts and those of State and local governments.

SENATOR ANDREWS: What kind of financial benefits does the Federal Government expect to achieve from the new program? Will the financial benefits be shared with the local transit systems?

ANSWER: We expect the direct financial benefits from increased reliance on the private sector in transit to accrue to State and local transit authorities, and eventually to each taxpayer through lower subsidies to transit. We know, for example, that contracting with the private sector for transit operations can save 20 percent to 60 percent in operating costs. This would accrue to the entity letting the contract. Other types of savings are possible and will vary from one locality on to the other--including privately sponsored and funded service as well as unsubsidized private operators. A recent Rice Center Study, New Directions in Urban Transportation: Private/Public Partnership details a host of specific examples.

We share information of this nature with State and local governments and, in fact, have recently awarded some research grants to answer some of the more detailed questions we are receiving. As this work is complete, we will make it available for any one who is interested. We are also engaged in activities that will foster closer harmony between local decisionmakers and private sector participants with a mutual interest in improving local mobility. In all of this, we are trying to emphasize that which has been demonstrated to work, recognizing that individual states and localities have widely varied needs.

The benefit to the Federal Government, we hope, will be a transit program more attuned to State and local needs, and a program that will give local government greater flexibility and greater responsibility in meeting local needs, rather than rely as heavily on the Federal Government.

We need to reverse the trend of the last few years and become the source of last resort, rather than the source of first resort in addressing a problem that differs so widely from location to location and one that Washington is ill-equipped to solve.

SENATOR ANDREWS: What types of private sector involvements are expected that would impact capital costs?

ANSWER: Types of private sector involvement in capital projects can take a number of forms. Direct cost sharing at the time of construction, payments through a benefits assessment district established to help fund a particular project, lease arrangements in conjunction with a transit project, political support for a local bond issue, all have been used by one community or another. The Private/Public Partnership Study I mentioned earlier is replete with examples of private involvement in transit projects. I will be happy to provide the Subcommittee with a copy for its records.

SENATOR ANDREWS: Will this office be involved in both operating and capital projects? What percentage in each?

ANSWER: With respect to involvement of the Office of Private Sector Initiatives in particular projects, it is not possible to specify particular types of projects. The office seeks to encourage communities to include the private sector in all its transit plans and projects, but because those plans and projects are initiated at the local level, local priorities would determine whether private involvement is sought for any individual capital or operating projects.

SENATOR ANDREWS: Does UMTA have any documentation on the current extent of Private involvement in Transit? e.g.. - contracting out for service to the elderly and handicapped - contracting our regular route service - contracting out overhaul, retrofit work.

ANSWER: A review of transit industry operating data compiled under Section 15 of the Urban Mass Transportation Act for fiscal year 1983 shows that the aggregate operating expenses for all UMTA grantees was $8.578 billion, and that $163 million of that went to operations provided by the private sector. Slightly less than 2 percent, then, of the industry's operating expenditures represents private sector operations. This estimate does not include the cost of independently provided service.

FAIR LABOR STANDARDS ACT (FLSA)

SENATOR ANDREWS: The Supreme Court recently ruled that the Fair Labor Standards Act applies to local public transit systems. What effect will this have on local transit systems? Will this increase operating costs to transit systems?

ANSWER: The Court's decision may mean higher overtime wages for many public transit employees, but more careful study will have to be made before a definite statement can be made. Secretary Dole and the UMTA Administrator have met with the APTA Executive Board on this issue. The UMTA Administrator has also written to the Department of Labor stating the Department's concern about the potential financial impact of the decision and the manner in which the Department of Labor plans to administer the overtime provisions of the Fair Labor Standards Act with respect to transit. In that letter the Administrator expressed the Department's willingness to work with the Department of Labor in applying the FLSA to transit, and requested a meeting to discuss this issue.

SENATOR ANDREWS: Did the Justice Department agree that there is a Federal interest in applying the FLSA to public transit systems?

ANSWER: The Department of Justice considers itself obligated, except in rare circumstances, to defend the constitutionality of statutes enacted by Congress, regardless of the Executive Branch's policy views on the statutes. Therefore, the Justice Department took the position that Congress' decision to extend the FLSA to transit employees was permissible under the Constitution.

SENATOR ANDREWS: Does the Justice Department's position and Supreme Court's decision contradict UMTA's position that the Federal Government doesn't have an interest in providing operating subsidies?

ANSWER: No. The Justice Department's position that the application of the FLSA to transit systems is constitutional did not depend on the presence or absence of operating subsidies. Although it discussed the financial assistance that Congress had provided for operating transit systems, the Supreme Court specifically stated that the application of the FLSA to transit systems would be constitutional even if Congress had not provided any Federal funding.

SENATOR ANDREWS: What is the Department doing in the area of the 13(c) labor provisions? Will changes be recommended to Congress? When? What types of changes? Please elaborate.

ANSWER: We will indicate our position on the section 13(c) provision when we submit to the Congress our one-year bill that implements the budget.

QUESTIONS SUBMITTED BY SENATOR ABDNOR

APPLICATION OF FAIR LABOR STANDARDS ACT TO TRANSIT

SENATOR ABDNOR: This Administration has indicated that there should be no Federal involvement in local transit operating decisions. However, the Justice Department recently argued before the Supreme Court that Federal wage requirements under the Federal Fair Labor Standards Act (FLSA) apply to transit properties. Justice's rationale was that the FLSA should apply to transit since transit was not, in their eyes, a traditional function of local government. How do you reconcile this example with the OMB's decision to cut 70% from the FY 86 Transit Budget?

ANSWER: The Supreme Court case in question was a challenge on constitutional grounds to Congress' decision to extend the FLSA to transit employees. The Department of Justice considers itself obligated, except in rare circumstances, to defend the constitutionality of statutes enacted by Congress, regardless of the Executive Branch's policy views on the statutes. A necessary part of Justice's defense of Congress' action was the argument that transit was not a "traditional governmental function," as that term had been defined by the Supreme Court. Justice's position in no way undercuts the Administration's budget proposal for transit, for Justice's position does not require or imply the need for Federal funding of local transit service.

PRIVATE-PUBLIC SECTOR INVOLVEMENT

SENATOR ABDNOR: Last year, UMTA set up an office to deal with private sector involvement in public transit. What is currently happening with that program? What are UMTA's goals Vis-a-Vis Private Sector Initiatives in public mass transit?

ANSWER: The Office of Private Sector Initiatives was recently established by the Urban Mass Transportation Administration (UMTA) to provide a focal point within UMTA to address concerns involving private sector participation in public transportation. The office will have the responsibility to review and coordinate UMTA program resources to assure support of private sector initiatives so as to maximize private sector involvement in those areas where their involvement will help local transit decision makers reduce cost and improve local mobility.

Promotional activities will emphasize increased competition in public transportation through service contracting to reduce costs as well as encourage independent services by the private sector; attract private investment in public transportation facilities and services; and increased business community involvement in planning and managing transportation demand and supply policies, such as van and carpooling, staffered work hours, parking policies, and fully funded private shuttle services.

The office has been organized within the framework of current UMTA program resources. The office will promote private sector initiatives by developing policy and legislative initiatives and coordinating UMTA program actions to provide assistance through planning grants, demonstration grants, information dissemination and technical assistance to individual communities.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

BUFFALO NEW START

SENATOR D'AMATO: I wrote to the Secretary on March 8, 1985 regarding this matter. My feeling is that, assuming this committee accepts the Budget's position on any of the reprogramming (which I have some serious doubts about) the funds for Buffalo fit the criteria set out in the budget. The $2.7 million is designed to be the final payment to the NFTA to complete the 6.4 mile operable segment which will start service next month. This project is therefore under construction and could be fully financed within the $2.7 million made available. In fact, UMTA, understanding this, issued a Letter of No Prejudice allowing the NFTA to spend up to $853,000 of this $2.7 million so as not to delay the opening of the system. Don't you agree that Buffalo fits the Budget proposal's criteria for funding?

ANSWER: We are reviewing the Buffalo new start project along with all the other new start projects in preparation for our reprogramming request. Upon completing the analysis required for the reprogramming request, we will be in a position to determine whether Buffalo will fit the resulting criteria for funding.

BUFFALO LIGHT RAIL CONSTRUCTION PROBLEMS

SENATOR D'AMATO: 5) As early as 1984, the DOT Inspector General issued a report detailing certain construction deficiencies relating to the Buffalo Light Rail system. I am aware that UMTA directed the NFTA to hire an independent firm to analyze the deficiencies (thickness of tunnel liner, etc.)

and recommend remedial action. Since the system will open in May, I am concerned that this work be completed.

A) Has the work been completed?

B) What has UMTA done to ensure that the work has been performed properly?

ANSWER: We have been informed by the Niagara Frontier Transit Authority (NFTA) that remedial actions recommended by their independent consultant have been substantially completed. We have under contract an independent professional engineering firm which is conducting an audit of corrective actions taken by NFTA. The purpose of this audit is to validate completion of remedial work within the tunnel section before commencement of revenue service on May 18, 1985.

CONSTRUCTION QUALITY ON UMTA PROJECTS - GENERAL

SENATOR D'AMATO: The Congress has in the past, through report language in appropriations acts, expressed its concern with the quality of construction in certain UMTA projects. What has UMTA done to address this concern? Follow-up: With respect to the elimination of new start funding, will UMTA still go forward with the hiring of construction management oversight contractors?

ANSWER: In response to Congressional concern, as well as our own, we have, to date placed under contract expert consultants on four of our major construction projects. Additionally, we are in the process of procuring a pool (8 to 10 firms) of highly qualified firms to perform Project Management Oversight of our major capital projects.

We will go forward with the hiring of our Project Management Oversight firms since we can continuously tailor their activities in direct proportion to our outstanding volume of approved major capital projects.

TRANSITIONAL ANALYSIS - EXTENSION OF BUFFALO LIGHT RAIL

SENATOR D'AMATO: I understand that Buffalo has completed the transitional analysis which was designed to lead to a corridor selection for possible future extension of the light rail system. Has the NFTA formally notified UMTA of a corridor selection yet? Does UMTA need to approve the next step, i.e., an alternatives analysis, in the selected corridor?

ANSWER: We understand that the analysis comparing the Amherst and Tonawandas Corridors is complete, but that local officials have not yet selected a priority corridor. Once the priority corridor is selected, the NFTA may proceed into alternatives analysis in accordance with UMTA's April 28, 1983 letter authorizing the initiation of the Northern Corridors Refinement Study.

NEW STARTS - UMTA CRITERIA FOR FUNDING

SENATOR D'AMATO: The FY 1986 Budget proposes no new start commitments from discretionary funding. Is UMTA, however, using its Major Capital Investment Policy to continue to rank new start projects?

ANSWER: UMTA has rated candidates for FY 1986 discretionary funding in accordance with the Major Capital

Investment Policy. We will be pleased to share the results of these ratings with the Committee when they are finalized.

SENATOR D'AMATO: Assuming that this Committee rejects the proposal to eliminate discretionary funding for new start projects, is UMTA planning on using its Major Capital Investment Policy to rank projects?

ANSWER: UMTA's Major Capital Investment Policy remains in effect. In the event that Congress and the President agree to fund new starts beyond the current fiscal year, UMTA will continue to evaluate, in the first quarter of each fiscal year, those projects that are candidates for final design and/or construction funding.

SENATOR D'AMATO: The FY 1985 Transportation Appropriations Act directed UMTA to engage in discussions with interested groups to examine the Major Capital Investment Policy. What discussions has UMTA had with other groups or, for that matter, with this Committee on use of the policy for ranking purposes? Are any changes in the policy being considered?

ANSWER: We have continued the dialogue. In addition to publishing the policy statement and rating system in the Federal Register for comment, we held a public meeting last September to obtain additional comments and have had informal contact with Congressional Committee staff and APTA.

We still think the primary rating criteria -- cost-effectiveness and local fiscal effort -- are good ones. We remain open to suggetions as to better ways to measure cost-effectiveness and local fiscal effort.

Since we propose to terminate the discretionary program, under which most new starts were advanced, we are not giving a high priority to making further refinements in the rating system. However, we would not issue any changes without further collaboration with the appropriate Congressional Committees.

SENATOR D'AMATO: Would it be UMTA's intent to disregard earmarkings and fund according to its rankings?

ANSWER: We would hope that the Congress would refrain from earmarking and allow the Administration, in consultation with the Congress through the letter of intent process, to advance the projects with greatest overall merit. However, if the Congress chooses to continue earmarkings these funds, UMTA would either honor the earmarkings or seek redress through a reprogramming request.

TRANSIT CRIME AND SECURITY FUNDING

SENATOR D'AMATO: The FY 86 Transportation Appropriations Act contains report language directing UMTA to allocate $15 million in Research and Training funds to transit security. As you know, transit crime has been a particular concern of mine. I know that a portion of a recent grant made by UMTA to the NYC Transit Authority (station security grant) included some research and training dollars. I certainly appreciate that responsiveness. Is UMTA planning on any other projects related to transit security? What else are you doing in this area?

ANSWER: Additional transit security projects, like the one for NYCTA in support of reducing crime in transit, will be reviewed for funding this year. The UMTA technical assistance program supports preventive security activities through management training, peer reviews and technical information outreach. Since 1977, we have offered a security training program in which 2,369 representatives from State and local transit agencies have participated. We are currently assessing the mechanizmz for the development of a transit crime reporting system to assist transit agencies in developing their security priorities and in developing security countermeasures to reduce crime. We have conducted security peer reviews of the proposed Los Angeles rapid rail transit and Sacramento light rail systems. Peer reviews for Santa Clara and Detroit are planned for this year.

SENATOR D'AMATO: My understanding is that under the budget proposal in FY 86 only those funds which represent carryover funds from prior years ($24.6 million) will be allocated.

a) Why is there $24 million in unobligated carryover funds in this program?

b) Does the Federal government, in your view, have any role to play in future years in transit research?

ANSWER: The $24.6 million represents the unobligated balances from FY 1984, plus some small amounts available from FY 1983 and from prior year deobligations. Amounts accumulated during FY 1984 were the result of major policy and directional changes which took place in the Research, Training and Human Resources program during that year. Since the project development cycle for a typical technical assistance project exceeds one year, projects which matched the new direction could not be developed or approved within the fiscal year.

The Federal government does have a role to play in future years in transit research; however, we believe that role should be limited to activities which are of national import and cannot be undertaken by the private sector.

GRANT OBLIGATION RATE

SENATOR D'AMATO: We are now more than half-way into Fiscal Year 1985. What percentage of the UMTA funding made available in FY 85 has been obligated (contracted-out by the Transit agencies) nationwide? How does this compare with prior years?

ANSWER: Approximately 18 percent of UMTA funds were available in FY 1985 has been obligated. This rate of obligation is slightly behind last year's figure achieved for the same time frame.

SENATOR D'AMATO: Does this "carryover" mean that transit properties are not applying for the funds because they don't need them? (This would contradict APTA's studies detailing transit capital needs of $7.5 to $8 billion by 1988).

ANSWER: The fact of a large carryover in formula funds means that some UZA's are not in a position to use funds at a particular time. Quite often UZA's may need to aggregate 2 to 3 years of their apportionments in order to have the amount of funds necessary for a particular project.

SENATOR D'AMATO: What amount should be unliquidated (contracted out, but not drawn down) at this point in the fiscal year?

ANSWER: To answer this question, I have established a task force to analyze the status of UMTA's unliquidated balances. Although this group has completed a preliminary analysis of inactive projects, (those projects obligated before 9/30/83 and had cash repayments or no cash disbursements in FY 1984), we are not yet able to provide you with the information requested. Although this examination of inactive projects was not a representative sample, this analysis concluded that cash draw downs are not expected for at least 12 to 18 months. This is not to say that this time period is not sometimes shorter, but it does say that time delays are expected.

A recommendation from the analysis suggests a study be undertaken by the Office of Budget and Policy to determine what amount should be unliqudiated at any point of a grant's cycle. This study would use extensive input from UMTA's Regional offices, examine historic trends of cash draw downs and include the theoretical draw down curve designed by the Office of Grants Management. Upon completion, UMTA would be able to provide the Senate with this information.

SENATOR D'AMATO: If formula funds have been obligated (contracted-out) but not drawn-down yet, how much of the FY 85 funds have thus far been obligated by grantees?

ANSWER: This information is monitored by UMTA's Regional staff. On a quarterly basis the UMTA grantees are required to provide the Regional offices with a financial report detailing the financial status of each approved project. Due to the time lag of quarterly reporting, we do not have all of the amounts obligated by grantees at this time.

UMTA CLAIMS TRANSIT IS A "MIDDLE CLASS SUBSIDY"

SENATOR D'AMATO: APTA studies show that 28 percent of all transit riders are under age 16 or over age 65. In addition, riders over the age of 65 comprise 16 percent of all riders. These groups have limited access to automobiles or a diminishing ability to drive. How will they travel without a viable mass transit system?

ANSWER: We believe that there does not have to be any substantial reduction in quantity or quality of service as a result of eliminating Federal operating subsidies.

In the aggregate, Federal assistance represents only 10 percent of total transit operating costs, so it is possible to make up loss of this Federal contribution through a combination of productivity improvements, fare adjustments, selective pruning of unproductive service and increased State and local support. Some areas receive as much as 40 percent Federal assistance, but service in these areas is the most amenable to performance by the private sector, either independently or under contract.

RAIL MODERNIZATION NEEDS STUDY - STATUS

SENATOR D'AMATO: More than 5 years ago, this Subcommittee asked UMTA to do a comprehensive study of the Rail Modernization needs in this country. To date, nothing has been forthcoming. I understand that a draft report, prepared by an independent consultant has documented the deteriorated state of our old rail systems. When will this study be made available to the Subcommittee?

ANSWER: We are expecting our contractor, Gannett Fleming Transportation Engineers, Inc., to complete the engineering phase of the study shortly (i.e. draft report by mid-April...completed engineering phase report 30-60 days later.)

Then we plan a follow-on task to develop a broader context for this information before sending it along to Congress. We want some inclusion of cost-benefit analysis of proposed rail modernization projects, as well as evaluations of alternative courses of action a grantee might consider before beginning a ten year investment effort in restoring all existing rail lines.

We believe such a broader context to amplify the engineering information more closely responds to the purposes of the original congressional mandate for the Study.

Now we expect a final report in early 1986.

OPERATING ASSISTANCE

SENATOR D'AMATO: For public policy reasons, the Federal Government has placed certain responsibilities upon public transit operators. They include: maintenance of half-fares for senior citizens and handicapped person; provision of accessible service (wheelchair lifts on buses and paratransit service); labor protection provision (Section 13c); maintenance of Federal investment in capital facilities (Federal Government has paid 80% of most acquisition costs and must ensure that equipment and facilities are maintained throughout their useful lives). These requirements increase costs to transit agencies. Doesn't UMTA have a duty to help transit agencies absorb some of these operating losses?

ANSWER: First, many of the regulations that you cite were imposed by Congress. This Administration is well aware of the costs that come along with Federal aid and associated requirements. This is one of the major reasons that we are proposing to eliminate Federal operating assistance. We will be examining the feasibility of eliminating unneeded and costly requirements in the context of our reauthorization bill.

However, to the extent that some regulations are necessary for health and safety reason and to provide service to the elderly and handicapped, we do not believe that this is a justification for Federal operating assistance.

SENATOR D'AMATO: Since 1981, operating assistance has been a target for elimination. Year after year, Congress has rejected that objective. 20%-10%-5% cuts in this Federal aid were agreed to in the Surface Transportation Assistance Act of 1982. Operating assistance has now been capped at $875 million and with no adjustment for inflation, this program has ceased growing. Why is UMTA again seeking to end operating assistance.

ANSWER: We continue to believe that transit fare and service decisions, and the subsidy requirements that result from these decisions, are properly a local responsibility. When Federal operating subsidies cushion local fare and service decisions, productivity and efficiency tend to decline, fares tend to decline in real terms and operating costs tend to decrease. All of these factors increase operating deficits and the demand for Federal operating subsidies. Finally, we believe that size of the Federal deficit makes it necessary to sort out those services that should be supported by State and local governments or provided by the private sector rather than by the Federal Government.

SENATOR D'AMATO: Has UMTA done any studies to show how operating assistance has affected transit employees' wages? (NYS DOT 1984 Annual Report on Public Transportation Operating Assistance Programs says that, "Historically, transit wages increased faster in real dollars in the years prior to the beginning of Federal operating assistance in 1975 than in the years after.")

RESPONSE: There is no comprehensive study of total compensation for various categories of transit employees that can be used validly to identify specific compensation trends over time, or to compare transit compensation with that of other occupations. The data that is available allows only the computation of aggregate average compensation per full time equivalent employee in the industry (excluding commuter rail). It shows the following (when adjusted for inflation using the GNP Deflator):

Period	Total Percentage Change in Aggregate Average Total Real Compensation	Compound Annual Percentage Change
1970-1975	93.2 percent	14 percent
1975-1983	83.9 percent	8 percent

The significance of this data is that even after the period of possible "catch up" in the early 1970's, aggregate average transit employee compensation continued to rise at a rate significantly greater than inflation--even during a period of economic recession when average real weekly earnings of all production workers was constant or declining.

Precise, comprehensive data on transit labor productivity is not available either, but the available aggregate statistics show that vehicle miles of service per full time equivalent employee has declined during both time periods:

Period	Total Percentage Change Output Per Employee Employee	Compound Annual Percentage Change
1970-1975	-8.7 percent	-1.7 percent
1975-1983	-6.9 percent	- .8 percent

In combination, rising real wages and declining productivity account for 36 percent of total National transit deficit increases between 1975 and 1983.

SENATOR D'AMATO: Federal operating assistance covers about 3% of the NYC transit authority's operating costs, but smaller rural areas depend on this aid for over 40% of their costs. Termination of Federal operating assistance will cause drastic service cutbacks or eliminations in these areas. In these smaller areas, basic transit service is essential to meet the mobility needs of the transportation disadvantaged. APTA's studies show that one quarter of the smaller systems surveyed predicted increases of 90% or more. Half predicted increases of 50% or more. 87% expect major declines in ridership. In New York State the following increases are predicted by the NYS Transportation Department.

NYC	7 to 10 cents (8%-11%)
Buffalo	30 to 40 cents (50%-67%)
Rochester	30 to 40 cents (43%-57%)
Albany	20 to 30 cents (40%-60%)
Syracuse	30 to 40 cents (50%-67%)
Binghamton	50 cents (100%)
Utica	50 cents (100%)
Elmira	60 cents (120%)
Poughkeepsie	30 cents (60%)

How does UMTA expect local communities to cope with the abrupt termination of operating assistance?

ANSWER: First, this is hardly an abrupt elimination of Federal operating assistance. This Administration has consistently advocated the elimination of Federal operating assistance since 1981. Cities have been aware of this policy and have already made a number of adjustments in fares, service and State and local funding to cope with reduced Federal operating assistance.

The Federal coverage of operating costs is relatively low for the cities that you mention.

Urbanized Area	Federal Coverage of Costs
New York City	4.9%
Buffalo	20.0%
Rochester	20.6%
Albany	9.1%
Syracuse	17.9%
Utica-Rome	30.0%
Elmira	28.6%
Poughkeepsie	28.9%

According to Peat, Marwick and Mitchell, the State of New York is projecting a budget surplus of $500 to $800 million for the fiscal year 1985. Federal operating subsidies represent less than one percent of the state budget so it would be relatively easy to replace Federal operating subsidies from this source alone.

In summary, operators in New York and elsewhere can cope with the elimination of Federal operating assistance by selective fare increases, a variety of productivity improvements, trimming unproductive services, increased local funding, and greater reliance on private sector service providers.

QUESTIONS SUBMITTED BY SENATOR CHILES

UNOBLIGATED BALANCES

SENATOR CHILES: As of October 1, 1984, 22% or over $500 million of the 1984 Section 9 formula funds that had been apportined to transit authorities around the country had not been obligated.

According to recent figures supplied by your office, the unobligated balance as of October 1, 1984, was $919.3 billion or 37.5% of the total 1985 apportioned funds.

What is the reason for such high rates of unobligated funds? Is UMTA slowing project approvals or don't the cities have a need for the funds? Based on your quote in the Miami Herald, "If you can't spend rationally the only way to get out the message to Congress is to stop spending it". . . , it sounds like you may be slowing down your rate of obligations on purpose.

The GAO has noted that medium and small cities had 39 percent and 67 percent of their funds unobligated. What explains the vastly different rate of obligation between large, medium and small cities?

ANSWER: The $919.3 million is the total unobligated formula balances at the end of FY 1984 for Sections 5, 9, 9A and 18. This includes FY 1982 Section 5 funds, FY 1983 Section 9A funds, FY 1984 Section 9 funds and FY 1983 and FY 1984 Section 18 funds. UMTA did not slow down the obligations of these funds nor do we intend to do this for current or future formula funds.

We recently conducted a survey of our regional offices to determine the reasons for large levels of unobligated formula balances available for operating assistance in areas with large balances. Thirty-one (31) areas over 200 thousand with operating funds greater than 75 percent of the FY 1985 cap on operating assistance were included in the survey. Nineteen (19) states with large operating balances (Section 5 operating funds greater than 75 percent of the FY 1985 cap) were also included in the survey to determine the reasons for large unobligated balances in cities under 200 thousand.

Areas over 200 Thousand. Thirty-one (31) areas with large unobligated formula balances available for operating assistance were included in the survey. Six (6) areas no longer had large unobligated balances because they had obligated funds since the end of FY 1984. The reasons for unobligated operating balances in the remaining 25 cities are summarized below:

Reasons for Large Unobligated Operating Balances in Areas Over 200 Thousand

Balance Not Needed	19
Small operation, balance not needed	10
Used transferred Section 5, small operation balance not needed	6
Profitable private operation, balance not needed	1
Transit operated by utility, balance not needed	1
Unwilling to increase local share, balance not needed	1

IMPACT OF THE PRESIDENT'S FEBRUARY BUDGET PROPOSAL ON TRANSIT ACTIVITIES

SENATOR CHILES: As you know, both the American Public Transit Association and the U. S. Conference of Mayors have polled transit authorities around the country to learn of the impact of the President's Proposals. According to the U. S. Conference of Mayors:

o 83 percent of the cities report that fares will increase.
o Over 70 percent would have to eliminate specific routes with more than 45 percent of the cities predicting overall cutbacks of more than 25 percent.
o 39 percent of the cities report that their systems would be threatened with a shutdown.

The APTA survey showed similar results.

I noted in your statement the comments that APTA has overreacted and exaggerated and that your office, in response, has conducted "an indepth analysis of the responses by directly contacting the grantees." The APTA study included responses from Miami, Melborne, Escambra County, Sarasota, Tallahasee, Palm Beach, Broward County, Pinellas County, Hillsborough County and other locations in Florida. Have these cities and counties been contacted in your counteranalysis? Why not? When did you begin this survey? Did you have the results before you recommended a 67 percent cut?

ANSWER: The FY 1986 Budget proposal was informed by continuous monitoring of the status of public transportation and analysis of data submitted pursuant to Section 15 of the Urban Mass Transportation Act. No specific survey of properties concerning prospective impacts was necessary prior to submitting the budget proposal.

APTA's February press release made serious charges concerning the potential impact of the budget proposals. However, APTA, until recently, refused to provide us with a copy of the survey instruments, a list of properties solicited, or the responses received. Thus we could only make our own assessments of the sixteen cities quoted in the press release. No Florida city was included in these quotes.

More recently, APTA has provided us with copies of the survey instrument and the responses received. Thus we have now had an opportunity to review the responses and can make some conclusions about their validity.

In general, the cities in Florida which responded have small transit operations which have relatively low farebox coverage and limited local support. Those small operators thus tend to be highly dependent on Federal operating assistance. Three Florida operators, Pensacola-Escambia, Melbourne and Tallahassee, claimed elimination of operating assistance would cause them to close down.

The operators in Florida could take a number of steps to mitigate the impact of any reduction in Federal operating assistance. First, farebox coverage could be raised from levels typically ranging around 20 percent of costs much closer to the national average of 38 percent. Second, the State could provide assistance. Florida had a budget balance of $121 million at the end of FY 1984. Statewide, Federal operating assistance in 1983 totalled $35.5 million, or only 0.693 percent of the State's $5.1 billion budget. Finally, a number of these cities had unobligated prior year formula funds available for use as operating assistance which could be used to mitigate any reductions. For example, Pensacola had available nearly two-year's use of operating assistance.

SENATOR CHILES: In the midst of all this budget slashing, I noticed you established a new office of Private Sector Initiatives. What is the purpose of this new office and what do you expect it to accomplish?

ANSWER: The Office of Private Sector Initiatives was recently established by the Urban Mass Transportation Administration (UMTA) to provide a focal point within UMTA to address concerns involving private sector participation in public transportation. The office will have the responsibility to review and coordinate UMTA program resources to assure support of private sector initiatives so as to maximize private sector involvement in those areas where their involvement will help local transit decision makers reduce cost and improve local mobility.

Promotional activities will emphasize increased competition in public transportation through service contracting to reduce costs as well as encourage independent services by the private sector; attract private investment in public transportation facilities and services; and increased business community involvement in planning and managing transportation demand and supply policies, such as van and carpooling, staffered work hours, parking policies, and fully funded private shuttle services.

The office has been organized within the framework of current UMTA program resources. The office will promote private sector initiatives by developing policy and legislative initiatives and coordinating UMTA program actions to provide assistance through planning grants, demonstration grants, information dissemination and technical assistance to individual communities.

SENATOR CHILES: What role would you recommend for the Federal transit programs? Do you envision a small revenue sharing program with advice to the private sector through the Private Sector Initiatives Office?

ANSWER: We view transit as primarily a local issue. Therefore, there should only be a limited Federal role. The Federal interest lies in allocating the revenues collected for the Mass Transit Account of the Highway Trust Fund. These funds can provide a minimum transit infrastructure for emergency needs and to provide mobility for those especially in need of transit services, such as elderly and handicapped individuals.

Technical assistance is also part of the Federal role, including assistance to the private sector. The Office of Private Sector Initiatives is designed to be a focal point for the private sector. The overall technical assistance activities will continue to be managed by the Office of Technical Assistance with guidance from OPSI.

STATUS OF NEEDED LEGISLATION

SENATOR CHILES: Clearly the proposal to distribute section 3 gas tax funds by formula, the proposal to increase the required local match and the proposal to merge the highway and transit interstate transfer grant programs all require legislation.

What is the status of the legislation needed to implement your new transit programs and what discussions have you had with the authorizing committees?

ANSWER: We intend to submit this legislation to the Congress very soon. I recently testified before UMTA's authorizing committee in the House, the House Public Works and Transportaton Committee, about the budget and our intention to submit legislation to implement it. We have also discussed the budget with Senate Banking Committee staff.

DISPROPORTIONATE REDUCTION FOR MASS TRANSIT

SENATOR CHILES: Mr. Stanley, for many years secretaries of Transportation have made statements strongly supporting a balanced national transportation system--one in which mass transit had an important role. It seemed clear that our cities needed help in reducing pollution and congestion and in meeting the transportation needs of its urban citizens, particularly the urban poor, the elderly and handicapped. Now all of a sudden we are faced with a complete turnabout--the Department proposes to take 75 percent of its budget reductions from mass transit programs. Have all of those past commitments just been rhetoric?

ANSWER: The transit reductions represent difficult budget choices. Transit is basically a local industry and locals should control its revenues and expenses, especially when the Federal budget is faced with deficits of over $200 billion per year. In order to meet the President's deficit reduction goals, the Administration has had to take a hard look at all transportation programs supported with Federal funds. Our budget proposals seek to focus scarce Federal resources on those programs that are critical to the fulfillment of such clear Federal responsibilities as national defence and the facilitation of interstate commerce.

Within the Department of Transportation, 85 percent of the total Department budget request will be financed by user fees. Of the remaining request for FY 1986, we have proposed reduced funding for programs such as mass transit and rail that are not supported primarily by user fees or which do not benefit the general taxpayer. In FY 1986, we will have reduced DOT's total budget authority derived from general funds by almost 60 percent relative to the FY 1985 level.

As a result of mounting budget pressures, the Department targeted reductions in those programs that were not financed by user fees, that is, those financed from general revenes. The Coast Guard's constitutional requirements and Maritime's (MARAD) contractual commitments could not be cut. In FY 1985, the Coast Guard and Maritime constitute about $3 billion, or 35 percent, of the total $8 billion in primarily non-user fee general funded DOT programs.

With respect to transit service, it appears that some areas may reduce the more costly transit service and make operating improvements, but these changes should not disproportionately affect the poor. The most expensive transit services to provide are long suburban routes, extra rush hour service, and flat fare systems that charge all riders the same regardless of how far they travel. These services tend to benefit the more well-to-do suburban commuters. And, turning to the needs of our elderly and handicapped, this Administration is committed to spend $10 million more on UMTA's elderly and handicapped program in FY 1986 than in FY 1984.

SENATOR CHILES: Has UMTA done an independent analysis of the consequences of this budget request? Would you please comment on the major points made by APTA with respect to the budget reduction's effect on service, fares, ridership and equipment maintenance.

ANSWER: We have not been provided a copy of the APTA survey. We asked for it both informally and formally back in February, but it has not been forthcomming--for whatever reason. Perhaps it is inaccurate or outdated.

Based on the APTA press release, I feel that APTA's overall approach encouraged the submission of exaggerated claims that resulted in a highly distorted picture of what might really happen. UMTA staff have contacted local officials and reviewed the accuracy and basis for the specific quotations cited in the APTA press release. Based on this review, UMTA finds the quoted conclusions are distorted and deliberately alarmist with respect to the potential impact of ending Federal operating assistance.

The distortions in the APTA press release can be seen from the following details:

Service: In total, Federal subsidies represent only 10 percent of operating costs, so at worst only a 10 percent cut in service would be required (for individual urban areas this ranges from 6 percent to over 40 percent). Many areas operate unproductive service that ought to be cut back or turned over to private operators. In no way will our proposal make shutdown "an imminent possibility" or result in "massive service cuts";

Fares: Overall, transit users pay about 38 percent of operating costs, so the total Federal subsidy amounts to about 1/4 of fare revenues. Our best estimate is that fares would have to increase, at the most, less than 5 percent after a reasonable mix of cost savings and increased State or local support;

Ridership: Selective service pruning and increasing fare revenues by cost-based fares could be implemented without any loss in ridership. To put transit ridership in perspective, only one (1) out of seventeen (17) workers regularly uses transit to get to work (this is about 6 million people per day), transit carries only 3 percent of total urban travel, and most transit users have middle or upper incomes (91 percent for work trip users and about 77 percent for all transit trips);

Capital maintenance: Our proposed level of $1.1 billion in capital assistance is sufficient to assist in meeting legitimate capital replacement and expansion needs--but localities have to hold up more of their end of this partnership by having a higher stake in the investment cost, by being able to carry the cost of operating the system, by doing better financial planning and giving transit sufficient priority in State and local budgets; and

Employment: Estimates assume that none of the Federal subsidy is made up from increased State or local subsidy; in any event, reducing the need to borrow or tax to fund the Federal deficit would leave the same amount of money in the private sector to spend or invest--generating just about the same number of jobs and business revenues and increasing the overall efficiency of the economy.

We are confident that transit operators and local officials can cope with the elimination of Federal operating assistance.

--APTA has repeatedly made dire predictions about the impacts of reducing Federal aid and the prospects of transit operators closing down--none of which have materialized; and

--An objective, academic survey of transit operators two (2) years ago, when faced with the same prospect, showed that they believed they could cope with an end to Federal operating subsidies with a reasonable mix of fare increases, service pruning, productivity improvements and increased State and local support.

TRANSIT SAFETY

SENATOR CHILES: Mass transit systems, with their large numbers of riders, would seem to have a potential for tremendous safety hazards unless great care is exercised. However, the National Transportation Safety Board has expressed concern over what the Board sees as a lack of commitment by UMTA to insuring that safety programs are a high priority in mass transit. The Chairman of the Board has stated: "...Basically the (UMTA) have taken the attitude that they are bankers, and bankers don't have safety programs." What is your view of UMTA's role in mass transit safety?

ANSWER: UMTA's safety program is designed as a cooperative effort with State and local governments and transit operating agencies. Our safety program emphasizes responsibility of local public agencies to assure the quality of safety programs in public transportation for various urbanized areas. UMTA provides safety technical assistance, safety research and development, and safety training and assistance in system safety reviews. These UMTA activities do not preempt State and local safety responsibilities.

QUESTIONS SUBMITTED BY SENATOR HATFIELD

SENATOR HATFIELD: Mr. Stanley, does the Urban Mass Transit Administration have a list of projects on which construction has not yet begun, which would be candidates for funding if new construction money is provided by Congress? If so, could you please provide the Committee with such a list, along with the criteria used for inclusion of a project on the list? Are these projects "rated" in any way so as to give certain projects a priority over other projects? If so, please describe the rating factors.

ANSWER: UMTA does have a list of new start projects that would be candidates for funding in FY 1986 if Section 3 funding is available. The list includes projects that are not yet under construction and have no funding commitment by UMTA. I would be glad to provide that in a formal letter to you after the appropriate clearances within the Administration.

SENATOR HATFIELD: What rating is assigned to the "West Side Light Rail Project" proposed by the Tri-County Metropolitan Transportation District of Oregon ("Tri-Met")? If no rating is assigned to this project, please explain why. Will the fact that the "West Side Light Rail Project" is not currently rated by UMTA work to its disadvantage in competition with other transit projects, and if so, what additional information must be supplied by Tri-Met to have it rated?

ANSWER: The Westside Light rail project is one of the proposals UMTA has been unable to rate thus far, although the results of alternatives analysis did show it to be a cost-effective project. Subsequent to the alternatives analysis, Tri-Met developed new estimates of several of the benefit measures used in UMTA's cost-effectiveness evaluation. While UMTA and Tri-Met have not yet reached agreement on these estimates, discussions are continuing.

The lack of a rating should not affect Tri-Met's standing in any competition for Federal construction funds. Local officials advise us that they do not intend to advance the Westside project to construction until at least a year after the Banfield project is open for revenue service, or some time in 1988. We expect to be able to rate the project well in advance of that time.

QUESTIONS SUBMITTED BY SENATOR WEICKER

SENATOR WEICKER: Mr. Stanley, in your testimony you state, "studies have shown that mass transit services, as actually operated and used make no appreciable contribution to the improvement of air quality, reduction in congestion or conservation of energy." What studies reveal such findings and would you please submit copies of these studies for the record?

ANSWER: In order for public transportat [illegible] have had any impact on air quality, energy conservation [illegible]stion, it would have had to attract users who had previously used low occupancy autos for their travel. This has not happened.

Since Federal assistance began, aggregate National transit ridership has declined--from 6.8 billion linked trips in 1965 to 6.4 billion in 1983. It was even lower during the 1970's. Between 1970 and 1980, the number of workers using public transportation for their work trip declined 7.3 percent, while the proportion using transit declined 30 percent--to 6.4 percent of all work trips.

Studies have shown that where they are feasible alternatives, vanpools and carpools are much more energy efficient and cost-effective than bus or rail transit systems as they currently operate. These studies include:

- System Design Concepts, Inc., "Urban Public Transportation and Energy, "October 1979.

- Congressional Budget Office, "Urban Transportation and Energy: The Potential Savings of Different Modes," September 1977.

SENATOR WEICKER: Mr. Stanley, in your testimony you also state that "by reducing governmental restrictions on private enterprise, private sector involvement in mass transit will increase..."

What governmental restrictions does the Administration propose to reduce and what evidence do you have to indicate that reducing governmental restrictions will increase private sector involvement specifically in the area of mass transit?

ANSWER: The local planning process, as it has evolved over the years, has not been designed to take into consideration the interests and capabilities of private operators, therefore, their ability to help localities provide lower cost and higher quality public transit service has not been fully explored.

UMTA has recently issued a policy on "Private Enterprise in Public Transit" intended to correct this deficiency by (a) requiring the early inclusion of private operators in the planning process, (b) require public transit agencies give priority consideration to those privately operated services that can be provided without public subsidies then, (c) those private operated services that can be provided at a lower cost than equivalent publically operated services and finally (d) the establishment of an equitable process for resolving disputes between public and private operators at the local level.

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We are also working closely with the National Association of Regional Councils (NARC) to identify barriers and modify the local planning processes to better take advantage of the capabilities of the private operator to help lower costs.

There is mounting evidence that private providers can provide a considerable segment of our current and future public transit needs at much lower costs. A report by Dr. Roger Teal summarizing these cases indicates that private operators can consistantly provide services at 20 to 60 percent lower than equivalent publically provided services

SENATOR WEICKER: If private sector involvement does increase, what consideration has been given to integrating these systems so that mass transit does not become a regionalized and fragmented system which only serves a limited area and a limited number of people?

ANSWER: UMTA has not proposed abandoment of public transit by local government, but rather the inclusion of privately operated services as an alternative supplier of service, through competitive process and to the specifications of the responsible public transit agency. Thus safety, fare levels, schedules, quality of service, et., are still the responsibility of responsible public servents.

Several examples exist. In the District of Norfolk, Virginia, the public transit authority has formulated an integrated system of services that are provided by a mix of public and private operators depending on who can provide the best quality service at the lowest cost. Their innovative approach has reduced public subsidy per passenger by 64 percent. Another example is Westchester County, New York, where local government officials responsible for public mobility have turned to 12 private providers, under contract, while retaining full responsibility for the quality of the service as delineated in the contract. Westchester officials will continue only with those private operators who can provide the service specified and do so better than they could provide these services themselves or better than any other private competitor. Many other examples can be found i.e., in Suffolk County, N.Y., San Diego, California, Phoenix, Arizona, etc., where the public transit agency has included privately operated services where such inclusion can reduce cost and improve quality.

SENATOR WEICKER: If, as the Administration proposes, operating subsidies are eventually eliminated, what reasons do you have to believe states and cities will cover the costs of the lost subsidies? What consideration has been given to those areas that cannot afford to cover the costs?

ANSWER: For a number of reasons we believe that cities can cope without Federal operating subsidies.

In one study on this issue, Robert Cervero of the University of California (Berkeley) asked transit sytems of all sizes how they planned to replace Federal operating subsidies if they were eliminated. Results are not drastic even for small cities. For example, cities with a population under 100,000 planned to replace 63 percent of lost Federal assistance by increased state and local aid, 14 percent by increased fares, 12 percent by decrease in service, and 11 percent by efficiency and productivity gains. Results of the 99 transit systems categorized by city size are summarized on the table below:

PERCENTAGE OF LOST FEDERAL REVENUE TO BE RECOVERED BY
VARIOUS ACTIONS, BY URBAN AREA POPULATION

URBAN AREA POPULATION

Percent of Lost Revenue Recovered By:	Under 100,000	100,000-250,000	250,000-1 million	Over 1 million
Increased Fares	14%	20%	23%	26%
Decreased Services	12%	18%	11%	17%
Increased Local and state Aid	63%	46%	49%	39%
Efficiency/ Productivity Gains a/	11%	16%	17%	18%

a/ Productivity gains refers to various service, pricing, management, operational, and cost-saving strategies which result in greater service utilization at lower unit costs, such as work-rule changes, improved marketing, reduced administrative and overhead costs, etc.

Source: Cervero, Robert. Intergovernmental Responsibilities for Financing Public Transit Seviced, 1982, UMTA. Adapted from Figure 8.1.

It is important to remember that Federal operating subsidies cover only 10 percent of operating costs nationally. This amount can be replaced without major disruption. Some small areas cover a greater proportion of costs with Federal funds but the absolute dolar amounts involved are relatively small and could be replaced by a variety of actions.

In all size areas there are opportunities:

- to reduce costs by improving labor productivity, making greater use of the private sector and shedding peak requirements,
- to prune unproductive services, and
- to increase farebox revenues (and also improve the equity of fare structures) without loss of ridership by moving to cost-based fares.

Many smaller and medium sized cities have not been able to use all of the formula funds that they receive. At the end of FY 1984, about $1 billion remained in unused Sections 5, 9, 9A and 18 funds. About two-thirds of this money was in cities with a population under one million.

According to a recent National Governor's Association Report, State governments ran a budget surplus of $7.4 billion, in 1984. These funds could be devoted to transit service. For example:

- o Pennsylvania is expecting a surplus of $188 million in FY 1985 and the Government is proposing a $140 million tax cut, yet a 1 percent minimum in the State budget would allow it to cover the entire $79 million Federal contribution to operating expenses in the State.
- o The State of Florida, which ran a surplus of $121 million in 1984, provides no operating assistance to its transit properties.

Finally, one important alternative to service cutbacks or higher fares is greater use of the private sector to provide service needs. Where competitive contracting has been used, reported savings have ranged from 30 to 50 percent.

SENATOR WEICKER: If, as you suggest, transit fares are increased to meet the cost of lost subsidies, what provisions have been made to assist those States and cities which will experience an increase in automobile traffic as a consequence of former transit users driving automobiles rather than paying an increased transit fare? What consideration has been given to the mass transit users who cannot afford an alternative mode of transportation?

ANSWER: An increased farebox contribution to covering transit operating costs can and should be an element in the local response to the loss of Federal operating assistance. But this should not necessarily take the form of an across-the-board increase in the prevailing flat-fare structures in most cities. Rather, tailoring differential fares to the differences in cost of providing services--e.g., peak vs. off-peak; distance; rail vs. bus--can substantially increase revenues without any substantial loss in ridership. The resulting fare structure could also be more equitable for low income users who currently cross-subsidize middle and upper income transit users.

Even if there were a reduction in transit riders, there would not have to be any increase in auto traffic if localities promoted ridesharing. Peak period transit and highway trips are ideal candidates for achieving the cost savings inherent in carpools, vanpools and privately provided transit service.

SENATOR WEICKER: Mr. Stanley, what assurances can you give me that the proposed elimination of Interstate Transit Transfer Funds will not result in the continued development of an extensive and modern highway system at the expense of an efficient mass transportation system?

ANSWER: The decision to substitute transit or highway projects for a segment of Interstate Highway is in the domain of State and local officials.

These decisions have already been made, and I would hope that State and local officials would not make any significant changes in these decisions because of the proposed funding change.

SENATOR WEICKER: Given the proposed elimination of funds, what incentive does a state have to withdraw planned interstate highway segments and develop a transit system instead?

ANSWER: The withdrawal process has been completed, except for segments under judicial injunction, and concept plans have been submitted. Segments under judicial injunction have until September 30. 1985, to be withdrawn. Essentially, the substitute projects have been identified by local officials. The law initially (Federal-Aid Highway Act of 1973) provided only for the substitution of transit projects, but later (Federal-Aid Highway Act of 1976) was expanded to include highway substitute projects.

SENATOR WEICKER: Mr. Stanley, does the administration have any plans to reduce funding for, or alter in any way, the mass transit elderly and handicapped program?

ANSWER: No, we do not have any plans to reduce funding for UMTA's elderly and handicapped program. In fact, we are proposing that the FY 1986 budget for the Section 16(b)(2) program of capital asistance for transportation of elderly and handicapped persons be increased from $25 million to $35 million. This is close to the program's current authorization level.

We do not intend to alter this program in any way. Funds are allocated annually to each State based on its percentage of the Nation's elderly and handicapped population. Private non-profit agencies which provide transportation for the elderly and handicapped apply directly to the State transportation agency for funds.

QUESTION SUBMITTED BY SENATOR BENTSEN

SENATOR BENTSEN: What is the status of the Cold Weather Transit Demonstration Program, and what efforts does the agency have underway to implement further research into this issue?

ANSWER: All research efforts on the cold weather transit technology (CWTT) program based on an existing $11,000,000 grant to the University of Notre Dame are expected to be completed by the end of this year. Notre Dame is currently preparing final project reports. Results of the present CWTT program have seen little usage to date and are likely to have limited future application in the transit community because the impacts of ice and snow on transit operations in the United States are infrequent.

UMTA recently received a new Section 6 grant application from Notre Dame for $7,500,000 to continue research on countermeasures against ice and snow. Our priorities, however are to provide assistance in areas where transit operators have more frequent and significant problems.

SUBCOMMITTEE RECESS

Senator LAUTENBERG. With that, we will conclude this meeting. Thank you very much, Mr. Stanley.

Mr. STANLEY. Thank you very much.

[Whereupon, at 11:45 a.m., Thursday, April 18, the subcommittee was recessed, to reconvene at 10 a.m., Wednesday, April 24.]

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DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1986

WEDNESDAY, APRIL 24, 1985

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:10 a.m., in room SD–138, Dirksen Senate Office Building. Hon. Mark Andrews (chairman) presiding.

Present: Senators Andrews, D'Amato, and Chiles.

DEPARTMENT OF TRANSPORTATION

U.S. COAST GUARD

STATEMENT OF ADM. JAMES S. GRACEY, COMMANDANT

ACCOMPANIED BY:
- VICE ADM. BENEDICT L. STABILE, VICE COMMANDANT
- REAR ADM. DONALD C. THOMPSON, CHIEF OF STAFF
- CAPT. ROBERT T. NELSON, CHIEF, PROGRAMS DIVISION
- CAPT. KENT H. WILLIAMS, CHIEF, BUDGET DIVISION

OPENING REMARKS

Senator ANDREWS. The subcommittee will come to order.

This morning our subcommittee will hear the U.S. Coast Guard. Here to testify is Admiral Gracey, the Commandant of the Coast Guard, accompanied by a number of his support personnel. Before we proceed with Admiral Gracey's statement, I have an opening statement from Senator Chiles which will be inserted in the record.

[The statement follows:]

STATEMENT OF SENATOR LAWTON CHILES

I would also like to welcome Admiral Gracey and the other Coast Guard leaders to our hearing this morning.

During a period when all other armed forces are enjoying growth, the Coast Guard is losing 833 positions, 620 of those are military positions. The capital program is cut $43 million and the overall budget shows a growth of only $14 million or 7 times less than would be required to keep pace with a 4-percent inflation rate.

In February we talked with Secretary Dole about the procurement for aerostat radar balloons. It is disappointing to learn that the procurement is still lodged in the Office of the Secretary and the debate on the best way to proceed is still underway. In view of the fact that there is only one supplier and there is general agreement to the national emergency at hand, the delay seems baffling and somewhat irresponsible.

STATEMENT OF ADMIRAL GRACEY

Senator ANDREWS. It is good to have you here, Admiral. Let me assure you that your statement will appear in the record as though given in its entirety. Summarize it in any way you wish.

Admiral GRACEY. Thank you, Mr. Chairman. I do not know how we are for time. I have a brief summary statement I am prepared to give if you would like me to do that.

Senator ANDREWS. That is fine.

Admiral GRACEY. I am, as always, pleased to have the opportunity to meet with you and the other members of the subcommittee to review and discuss the Coast Guard's fiscal year 1986 budget request.

INTRODUCTION OF ASSOCIATES

You mentioned some of my staff people. Let me introduce them by name, if I may, sir. On my far right is Vice Adm. Ben Stabile. He is Vice Commandant. And on my far left is Rear Adm. Donald Thompson, who is my Chief of Staff.

On my immediate right is Chief of the Programs Division, Capt. Bob Nelson, and on my left is Chief of the Budget Division, Capt. Kent Williams.

BUDGET REQUEST

Our overall request this year, Mr. Chairman, totals about $2.54 billion in budget authority, and it represents a balance between the need to limit Federal budget growth and the requirement to support priority programs which are vital to the national interest, particularly the Coast Guard's three basic missions of maritime safety, defense readiness, and law enforcement.

The request provides for continuing essential Coast Guard functions and operating newly acquired facilities and equipment while at the same time proposing a net reduction in personnel.

To effect many of those personnel reductions, we will focus on realigning support activities and administration through staff consolidations. The A-76 process will also remain a major tool in seeking personnel economies and productivity improvements through reviewing support activities that are not inherently governmental in nature, with a view to having them performed by private sector firms under contract.

Where operating program changes are proposed, as in the Commercial Vessel Safety Program or Great Lakes search and rescue consolidations, they will be achieved by the consolidation of activities or through other program efficiencies.

We are once again seeking user fees for certain Coast Guard services. Our legislative proposal anticipates that in fiscal year 1986, the fees being proposed will generate half-year receipts of about $236 million, which would increase to a level of about $476 million annually.

We have also included a number of management improvement initiatives in this budget to help keep us within the President's freeze guidelines. We are looking for improved productivity as we always have.

BEST [illegible]

It is the ultimate payoff, the tangible result of the management and leadership attention of the kind that the Coast Guard has traditionally applied to its affairs.

OPERATING EXPENSES

The operating expenses appropriation request for just over $1.78 billion is to fund the operation and maintenance of Coast Guard ships, aircraft, and shore units, including facilities acquired through capital investments in recent years.

Our request will provide for 38,220 full-time equivalent military personnel. The total amount for operating expenses includes $15 million provided from the boat safety account as authorized by law.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The acquisition, construction, and improvements appropriation request for $303.1 million in budget authority is to fund capital improvements, including aircraft procurements, cutter acquisitions, renovations, and modernization, and replacement and renovation programs at selected shore facilities.

Projects have also been initiated to provide electronic data processing and communications to more Coast Guard commands to enhance productivity and management and command decision making.

RETIRED PAY

The retired pay appropriation request of $340.5 million is based upon an average of 24,298 annuitants on the rolls.

RESERVE TRAINING

The reserve training program proposed at $61.5 million will support the Selected Reserve at a continuing level of 12,500 people. The Coast Guard Reserve is a valuable contributor to our national security, especially in the areas of strategic mobility and defense readiness.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

The research, development, test, and evaluation request, totaling $23 million, is consistent with the level appropriated in fiscal year 1985.

The balance of our request, approximately $43 million, will fund our alteration of bridges account, our boat safety account, and our pollution type funds.

The total dollar level of the request before you represents just a small increase from last year, and personnel levels are actually lower. Yet even with this no-growth budget, we will sail more ships and fly more planes than last year. We will do all of those things by working smarter, by using a combination of technical improvements and management initiatives to make us even more cost-effective.

We will also continue to meet increasing program responsibilities, particularly in the areas of drug law enforcement and defense readiness, continuing what I believe is our well-justified reputation for productivity in the truest sense of the word.

In keeping with the President's determination to control Government spending and reduce the deficit, our budget is a frugal one. We are not asking for one more dollar or one more person than we need to do our job.

As you review our budget request, I feel confident you will find that it properly balances the need to seek economies and cost effectiveness with the requirements to maintain our statutory responsibilities in the areas of maritime safety, law enforcement, and defense readiness. Certainly those were our goals as we prepared it.

I look forward to working with you and the other members of the committee as we try to meet the fiscal challenges facing all of us in Government this year.

And now, Mr. Chairman, I will be happy to respond to any questions the committee may have.

PREPARED STATEMENT

Senator ANDREWS. Thank you very much, Admiral. We will insert your complete statement in the record, and we will proceed with the questions.

[The statement follows:]

STATEMENT OF ADM. JAMES S. GRACEY

MR. CHAIRMAN, I AM PLEASED TO HAVE THIS OPPORTUNITY TO MEET WITH YOU AND OTHER MEMBERS OF THIS SUBCOMMITTEE TO REVIEW AND DISCUSS THE COAST GUARD FISCAL YEAR 1986 BUDGET REQUEST. ACCOMPANYING ME ARE THE VICE COMMANDANT, VICE ADMIRAL BENEDICT STABILE; MY CHIEF OF STAFF, REAR ADMIRAL DONALD THOMPSON; THE CHIEF OF THE PROGRAMS DIVISION, CAPTAIN ROBERT NELSON; AND THE CHIEF OF THE BUDGET DIVISION, CAPTAIN KENT WILLIAMS.

OUR OVERALL REQUEST, TOTALING ABOUT $2.54 BILLION IN BUDGET AUTHORITY, ALLOWS A CONTINUATION OF PLANS TO MODERNIZE AND IMPROVE THE EFFICIENCY OF THE COAST GUARD'S CAPITAL PLANT; TO INCREASE THE CAPABILITY OF EXISTING RESOURCES THROUGH SENSOR ADDITIONS AND COMMAND AND CONTROL ENHANCEMENTS; AND TO REDUCE ADMINISTRATIVE OVERHEAD THROUGH CONSOLIDATIONS AND OTHER ECONOMIES.

THIS REQUEST REPRESENTS A BALANCE BETWEEN THE NEED TO LIMIT FEDERAL BUDGET GROWTH AND THE REQUIREMENT TO SUPPORT PRIORITY PROGRAMS VITAL TO THE NATIONAL INTEREST; PARTICULARLY THE COAST GUARD'S THREE BASIC MISSIONS: MARITIME SAFETY, DEFENSE READINESS, AND LAW [illegible]ORCEMENT.

THIS REQUEST PROVIDES FOR A CONTINUATION OF ESSENTIAL COAST GUARD FUNCTIONS AND THE OPERATION OF NEW FACILITIES AND EQUIPMENT, WHILE SIMULTANEOUSLY PROPOSING A NET REDUCTION IN PERSONNEL. TO EFFECT MANY OF THOSE PERSONNEL REDUCTIONS, WE WILL FOCUS ON REALIGNING SUPPORT ACTIVITIES AND TRIMMING ADMINISTRATIVE OVERHEAD THROUGH STAFF CONSOLIDATIONS. THE A-76 PROCESS WILL ALSO REMAIN A MAJOR TOOL IN SEEKING PERSONNEL ECONOMIES AND PRODUCTIVITY IMPROVEMENTS THROUGH REVIEWING SUPPORT ACTIVITIES THAT ARE NOT INHERENTLY GOVERNMENTAL IN NATURE, WITH A VIEW TO HAVING THEM PERFORMED BY PRIVATE SECTOR FIRMS UNDER CONTRACT. WHERE OPERATING PROGRAM CHANGES ARE PROPOSED. . .AS IN

THE COMMERCIAL VESSEL SAFETY PROGRAM OR GREAT LAKES SEARCH AND RESCUE. . .THEY WILL BE ACHIEVED BY THE CONSOLIDATION OF ACTIVITIES OR THROUGH OTHER PROGRAM EFFICIENCIES.

WE ARE ONCE AGAIN SEEKING USER FEES FOR CERTAIN COAST GUARD SERVICES. OUR LEGISLATIVE PROPOSAL ANTICIPATES THAT IN FISCAL YEAR 1986 THE FEES BEING PROPOSED WILL GENERATE HALF-YEAR RECEIPTS OF ABOUT $236 MILLION. IN FISCAL YEAR 1987, THE FIRST FULL YEAR OF IMPLEMENTATION, RECEIPTS WOULD INCREASE TO A LEVEL OF ABOUT $476 MILLION AND THEN REMAIN AT THAT LEVEL IN THE OUT-YEARS.

WE HAVE ALSO INCLUDED A NUMBER OF MANAGEMENT IMPROVEMENT INITIATIVES IN THIS BUDGET TO HELP KEEP US WITHIN THE PRESIDENT'S "FREEZE" GUIDELINES. WE ARE LOOKING FOR IMPROVED PRODUCTIVITY . . .AS WE ALWAYS HAVE. IT IS THE ULTIMATE PAYOFF. . .THE TANGIBLE RESULT OF THE MANAGEMENT AND LEADERSHIP ATTENTION THE COAST GUARD HAS TRADITIONALLY APPLIED TO ITS AFFAIRS.

OPERATING EXPENSES

THE OPERATING EXPENSES APPROPRIATION REQUEST FOR JUST OVER $1.78 BILLION IS TO FUND THE OPERATION AND MAINTENANCE OF COAST GUARD SHIPS, AIRCRAFT, AND SHORE UNITS, INCLUDING FACILITIES ACQUIRED THROUGH CAPITAL INVESTMENTS IN RECENT YEARS. THE LEVEL IN THE APPROPRIATION LANGUAGE FOR FUNDING MILITARY COMPENSATION AND BENEFITS WILL PROVIDE FOR THE 38,220 FULL-TIME EQUIVALENT PERSONNEL REQUESTED. FUNDING WILL ALSO ALLOW OPERATION OF 2 LEASED AND 3 COAST GUARD OWNED AEROSTATS. . .MOBILE, TETHERED-BALLOON, RADAR SURVEILLANCE SYSTEMS. . .FOR USE IN OUR DRUG INTERDICTION EFFORT. ALSO, IN FY 1986 WE WILL BEGIN OPERATING 4 NEW 270 FOOT MEDIUM ENDURANCE CUTTERS, 1 NEW 140 FOOT ICEBREAKING TUG, 2 NEW HC-130 LONG RANGE SEARCH AIRCRAFT, 26 NEW SHORT RANGE RECOVERY HELICOPTERS AND THE FIRST 10 OF OUR NEW 110 FOOT PATROL BOATS.

THE TOTAL AMOUNT FOR OPERATING EXPENSES INCLUDES $15 MILLION PROVIDED FROM THE BOAT SAFETY ACCOUNT. FISCAL YEAR 1986 IS THE FIRST YEAR FOR THIS FUNDING TRANSFER WHICH WAS AUTHORIZED BY THE DEFICIT REDUCTION ACT OF 1984.

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS

THE ACQUISITION, CONSTRUCTION AND IMPROVEMENTS APPROPRIATION REQUEST FOR $303.1 MILLION IN BUDGET AUTHORITY IS TO FUND CAPITAL IMPROVEMENTS, INCLUDING AIRCRAFT PROCUREMENTS; CUTTER ACQUISITIONS, RENOVATIONS, AND MODERNIZATION; AND REPLACEMENT AND RENOVATION PROGRAMS AT SELECTED SHORE FACILITIES.

THIS BUDGET PROVIDES FOR THE CONSTRUCTION OF 1 REPLACEMENT RIVER TENDER. IT WILL ALSO ALLOW US TO RENOVATE AND MODERNIZE 3 MORE 210 FOOT MEDIUM ENDURANCE CUTTERS, 2 ADDITIONAL 378 FOOT HIGH ENDURANCE CUTTERS, AND TO MAKE SAFETY AND SUPPORTABILITY UPGRADES TO 1 POLAR ICEBREAKER. 42 OF THE 96 SHORT RANGE RECOVERY (SRR) HELICOPTERS ARE TO BE DELIVERED BY THE END OF FY 1986. RENOVATION AND REPLACEMENT OF OBSOLETE SHORE FACILITIES WILL ALSO CONTINUE. PARTICULAR EMPHASIS WILL BE PLACED ON UPGRADING SHORE FACILITIES TO INSURE ADEQUATE SUPPORT FOR BOTH NEW AND RENOVATED HIGH AND MEDIUM ENDURANCE CUTTERS. PROJECTS HAVE ALSO BEEN INITIATED TO PROVIDE ELECTRONIC DATA PROCESSING AND COMMUNICATIONS TO MORE COAST GUARD COMMANDS TO ENHANCE PRODUCTIVITY AND MANAGEMENT AND COMMAND DECISION-MAKING.

ALTERATION OF BRIDGES

THE $5.2 MILLION REQUESTED FOR ALTERATION OF BRIDGES WILL PROVIDE FOR THE GOVERNMENT'S SHARE OF THE COST TO CONTINUE ALTERATIONS ON THE WILLAMETTE RIVER BRIDGE, PORTLAND, OREGON.

RETIRED PAY

THE RETIRED PAY APPROPRIATION REQUEST OF $340.5 MILLION IS BASED UPON AN AVERAGE OF 24,298 ANNUITANTS ON THE ROLLS. THE

REQUEST REFLECTS THE PRESIDENT'S LEGISLATIVE PROPOSAL TO FOREGO COST-OF-LIVING ADJUSTMENTS FOR 1986.

RESERVE TRAINING

THE RESERVE TRAINING PROGRAM, PROPOSED AT $61.5 MILLION, WILL SUPPORT THE SELECTED RESERVE AT A CONTINUING LEVEL OF 12,500 PEOPLE. THE COAST GUARD RESERVE IS A VALUABLE CONTRIBUTOR TO OUR NATIONAL SECURITY, ESPECIALLY IN THE AREAS OF STRATEGIC MOBILITY AND DEFENSE READINESS. IT IS ALSO A COST-EFFECTIVE ASSET IN SUPPORT OF PEACETIME COAST GUARD MISSIONS.

RESEARCH, DEVELOPMENT, TEST & EVALUATION

THE RESEARCH, DEVELOPMENT, TEST AND EVALUATION REQUEST TOTALING $23.0 MILLION IS CONSISTENT WITH THE LEVEL APPROPRIATED IN FISCAL YEAR 1985. THIS APPROPRIATION IS DIRECTED TOWARDS IMPROVING THE EXECUTION OF EXISTING MISSIONS AND PROGRAMS ALONG WITH DEVELOPING THE CAPABILITIES ANTICIPATED FOR FUTURE MISSION REQUIREMENTS. THE PROGRAM TAKES A TWO-PRONGED APPROACH:

HARDWARE, SYSTEM, AND PROCEDURES DEVELOPMENT TO INCREASE THE PRODUCTIVITY AND EFFECTIVENESS OF OUR PEOPLE; AND EXPANSION OF OUR KNOWLEDGE BASE FOR TECHNICAL SUPPORT TO OUR OPERATING AND REGULATORY MISSIONS. AMONG THE THINGS WE ARE TRYING TO ACCOMPLISH WITH THE COAST GUARD R&D PROGRAM IS ENHANCE THE PRODUCTIVITY OF OUR HIGH-INVESTMENT OPERATING UNITS.
SUCCESS IN PROJECTS OF THIS TYPE SHOWS UP IN LATER BUDGET YEARS AS COST AVOIDANCE. EXAMPLES OF OUR INITIATIVES IN THIS AREA INCLUDE STUDIES OF: THE MOST COST EFFECTIVE AND PRODUCTIVE MIX OF VESSEL TYPES WITH WHICH TO REPLACE OUR AGING PATROL BOAT FLEET; SENSORS FOR OUR OPERATING FACILITIES; COMMAND AND CONTROL DATA SYSTEM APPLICATIONS AND INTEGRATION; AND NEW MATERIALS AND TECHNIQUES TO HELP IMPROVE SAFETY AT SEA.

BOAT SAFETY ACCOUNT

THE BOATING SAFETY REQUEST IS FOR $28.6 MILLION. OF THAT TOTAL, $13.6 MILLION PROVIDES FINANCIAL ASSISTANCE TO STATES FOR THE DEVELOPMENT AND IMPLEMENTATION OF A COORDINATED NATIONAL RECREATIONAL BOATING SAFETY PROGRAM. THIS CONTINUES THE FUNDING LEVEL AT THE AMOUNT APPROPRIATED FOR FISCAL YEAR 1985. THE REMAINING $15.0 MILLION IS PROVIDED FOR USE IN THE OPERATING EXPENSES APPROPRIATION, AS NOTED EARLIER.

OTHER FUNDS

FOR THE POLLUTION FUND WE ARE INCLUDING $7.0 MILLION IN PERMANENT AUTHORITY, AS WE HAVE IN PREVIOUS YEARS. FOR THE OFFSHORE OIL POLLUTION COMPENSATION FUND AND THE DEEPWATER PORT LIABILITY FUND, WE ARE REQUESTING $1 MILLION FOR EACH APPROPRIATION AND A MAXIMUM OBLIGATION LIMIT IN THESE TWO FUNDS OF $60 MILLION AND $50 MILLION, RESPECTIVELY.

SUMMARY

THE TOTAL DOLLAR LEVEL OF THE REQUEST BEFORE YOU REPRESENTS JUST A SMALL INCREASE FROM LAST YEAR AND PERSONNEL LEVELS ARE ACTUALLY LOWER. YET, EVEN WITH THIS NO-GROWTH BUDGET, WE WILL SAIL MORE SHIPS AND FLY MORE PLANES THAN LAST YEAR. WE WILL DO ALL OF THOSE THINGS BY WORKING SMARTER. . .BY USING A COMBINATION OF TECHNICAL IMPROVEMENTS AND MANAGEMENT INITIATIVES TO MAKE US EVEN MORE COST-EFFECTIVE.

WE WILL ALSO CONTINUE TO MEET INCREASING PROGRAM RESPONSIBILITIES, PARTICULARLY IN THE AREAS OF DRUG LAW ENFORCEMENT AND DEFENSE READINESS. . .CONTINUING WHAT I BELIEVE IS OUR WELL-JUSTIFIED REPUTATION FOR PRODUCTIVITY, IN THE TRUEST SENSE OF THE WORD.

IN KEEPING WITH THE PRESIDENT'S DETERMINATION TO CONTROL GOVERNMENT SPENDING AND REDUCE THE DEFICIT, OUR BUDGET IS A

FRUGAL ONE. WE'RE NOT ASKING FOR ONE MORE DOLLAR. . .OR ONE MORE PERSON. . . THAN WE NEED TO DO OUR JOB. AS YOU REVIEW OUR BUDGET REQUEST, I FEEL CONFIDENT YOU WILL FIND THAT IT PROPERLY BALANCES THE NEED TO SEEK ECONOMIES AND COST-EFFECTIVENESS WITH THE REQUIREMENTS TO MAINTAIN OUR STATUTORY RESPONSIBILITIES IN THE AREAS OF MARITIME SAFETY, LAW ENFORCEMENT AND DEFENSE READINESS. CERTAINLY, THOSE WERE OUR GOALS AS WE PREPARED IT. I LOOK FORWARD TO WORKING WITH THIS COMMITTEE AS WE TRY TO MEET THE FISCAL CHALLENGES FACING ALL OF US IN GOVERNMENT THIS YEAR.

MR. CHAIRMAN, THIS CONCLUDES MY PREPARED STATEMENT. I'LL BE HAPPY TO RESPOND TO ANY QUESTIONS THE COMMITTEE MAY HAVE.

DRUG INTERDICTION

Senator ANDREWS. Our colleague, Senator D'Amato, is here, and he has another commitment and a couple of questions to ask. I will turn it over to him for a moment.

Senator D'AMATO. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I would be remiss if I did not indicate to you how deeply appreciative all of us are of your attention to these vital areas of transportation, in particular as it relates to the Coast Guard.

Mr. Chairman, the issue we focus on today concerns not only my State but everyone in this country, and that is our Nation's commitment to win the war on drugs. The budget for the Coast Guard to fight this war is not adequate, just as the budgets proposed for the Customs Service and the Drug Enforcement Administration are inadequate.

To increase the Coast Guard's drug interdiction ability, I believe it is necessary to deal with five key elements in the Coast Guard's budget. They are, namely, one, the restoring of funds for the two Coast Guard cutters on the east coast, and maintain current strength in the Atlantic of 30 cutters.

I do not care, Admiral, how often people say they will work smarter, better, and be more efficient, more effective. There is just so much you can do, and when you take those two cutters out of service, and decrease the number in the fleet, you are not going to be able to make that up.

Second, restore the 833 Coast Guard positions nationwide that this budget would eliminate. There is something very precious called esprit de corps. If you want to wreck that esprit de corps, just take out the 833 positions, and tell those who remain to work harder and longer hours.

I have seen a group of Coast Guard people who are more dedicated and more conscientious than just about any other group, and I do not want to see us jeopardize that by making these kinds of frivolous cuts that will really hurt the bone and marrow and the integrity of this great group of men and women.

Three, increase by 50 percent the number of Coast Guard drug interdiction teams, TACLET's, now working so successfully aboard Navy ships. That is the kind of thing, a very prudent investment in manpower in the right areas, that will pay great dividends.

Four, maintain the Coast Guard's strength at Alexandria Bay and other positions on the Great Lakes.

And five, expand the use of nighttime detection systems and aerostat radar balloons for effective drug interdiction.

All of this, I believe, is necessary, and we must work to achieve it. When we look at the number of nighttime detection renovations that you are making on the fleet, Admiral, I think you are doing about six a year, is that right, on your helicopters?

Admiral GRACEY. There are two kinds of systems we are working on, Senator. One is our forward-looking infrared system, which will ultimately be mounted on all 96 of our new helicopters. We are starting out with a prototype buy of five.

We have another system called AIREYE, which is a sensor package for our HU–25 medium range search aircraft. We have authority to buy one, and a decision must be made today or tomorrow as to whether we will go forward with a contract for the other five.

Senator D'AMATO. Admiral, the problem I find with this is, this effort is totally inadequate. At the rate of five a year it will take us 20 years. That is why we have got to restore those. I think it is $6 million we are talking about. Get those moneys in there so that we can really do this job.

If you have a better way to rescue people, to save lives, to do drug interdiction work, it is a modest cost. I think it has absolutely got to be the most frustrating thing for the men and women on that battle line who are trying to save lives, who are trying to make inroads against the drug operators and operations, to have us skimping in an area that we should not be skimping in. There are better areas to save money.

Mr. Chairman, I am pleased that you have given me this opportunity. I wonder if I might ask one more question.

Senator ANDREWS. Sure.

FUNDING FOR PERSONNEL FLOOR

Senator D'AMATO. In the authorization bill last year, Congress took the extraordinary step of establishing a floor of 39,150 personnel for the Coast Guard. Admiral, does the budget request ask for funding at that level?

Admiral GRACEY. The budget requests funding at the level of 38,220, sir.

Senator D'AMATO. I would call the chairman's attention to this. I know this is something that he knows well, and has battled continuously. This is just thumbing the nose at Congress. I know they continually do this, and I would hope, and I would be very supportive of any of the chairman's efforts to see to it that that floor is established.

Senator ANDREWS. Thank you, Senator.

Senator D'AMATO. Thank you, Mr. Chairman.

AIRCRAFT SENSORS

Admiral GRACEY. Mr. Chairman, may I respond to one point of Senator D'Amato's a minute ago? I think I might be able to shed a little light and make you feel a little bit better, Senator, about the question of the sensors. They are a very high priority with us, but up to now we have been in a developmental stage. That has been the problem with the FLIR, the forward-looking infrared. We have had weight problems with the aircraft. We have a design.

We want to make a prototype, to make sure the whole system works. Then we will be able to launch out into the whole program. AIREYE has been another matter. We have had some problems with the antenna pods, and we found some problems with the flight test of the active-gated television.

Those are all resolved now and we are ready to go ahead with the buy. All the aircraft are equipped with hard points to allow us to put this system on, in any one of our medium range aircraft. We are ready to launch out in the program you want.

I can assure you that you are absolutely right about how the people feel about wanting that kind of help in the field. You are right on the mark on that, Senator.

Senator D'AMATO. Thank you.

Thank you, Mr. Chairman.

CONGRESSIONAL VERSUS OMB BUDGET REQUEST

Senator ANDREWS. Thank you, Senator.

Admiral, the Coast Guard's fiscal year 1986 budget is essentially a freeze in budget authority, a 2-percent reduction of military personnel, and a 4-percent civilian positions cut. In what respects is the congressional request different from the Coast Guard's request to OMB?

Admiral GRACEY. Well, Senator, I can give you some summary figures that will give you the picture, and then if you want to get into specific details, I can do that. For our operating expense funds, the request you see before you is $102.5 million below our original request. AC&I is $259.7 million below our request. Reserve training is down $4.4 million, and in the field of personnel, combined military and civilian personnel are 1,969 people below our request.

Senator ANDREWS. Do you feel that the budget now before us reflects the proper balance between capital investment and operating expenses?

Admiral GRACEY. Given the envelope in which we must operate, Senator, with the view of holding the line, yes, I think we have the proper balance.

That isn't to say that I am happy with the levels, but we have given some thought to whether we might propose to somebody that we could help solve some of the squeezes we are faced with in operating expense and personnel cuts by perhaps suggesting a move of funding out of AC&I, the capital account.

Frankly, Senator, that gives us great heartburn. When we explored it at great length, we cannot find a place that would change the balance which would make any sense at all, or that would not ultimately hurt in the long pull not only our operating expense, but it would undermine our trying to spend a dollar today to invest in the future.

FUNDING FOR PERSONNEL SHORTAGES

Senator ANDREWS. What areas of the AC&I account would be deferred to address funding for these personnel shortages?

Admiral GRACEY. I do not think there are any, Senator. If we were to defer the AC&I account—it would be just a short-term solution—a 1-year solution. All we would be doing is putting it off for another year.

You can defer almost anything if it is the national will or the congressional will to do so, but you have to pay a price when you do that.

Frankly, as I said, we took a hard look at this. What we found was that deferral wiped out almost every single project in AC&I except the major ongoing hardware buys and major investments in the future. But the kinds of things we really have to keep moving ahead slowly to try to make some progress, like fixing our shore plant and our logistics system, would get wiped out.

You can say, well, we will only buy a couple of these instead of six, but you heard Senator D'Amato. Senator D'Amato said six is ridiculous, and it certainly does not make sense to cut back to two. We hope we are not put to the test as to what AC&I we would take out to fund OE, because, frankly, we think it is a shortsighted thing. All we are doing is pushing the problem back into another year.

COOPERATIVE EFFORT WITH NAVY

Senator ANDREWS. Admiral, on a slightly different subject, North Dakota doesn't have too many coast lines where we depend on the Coast Guard, but we do have a reservoir, Lake Sakakawea.

We have some rural water lines, some other things, but the Coast Guard doesn't have too much presence in our State. Every one of our States in this country is concerned with the increasing use of drugs in America.

That is where you impact on the people I represent in the upper Midwest just as much as you do on the people in the coastal States. I understand the legislative initiative, which now has the support of the Secretary of Defense, calls for the Air Force to cooperate with Customs personnel in operational use of 16 P–3's for drug surveillance.

Now, when this subcommittee attempted to establish a similar Coast Guard cooperative agreement using Navy E–2C's, the junior AWAC's, the Hawkeyes, as we call them, we were told that the E–2C was too expensive and detected too many targets. As I recall, you denied, Admiral, any resistance based on service jealousy. The Navy was a little, shall we say, hard put to operate out of the Coast Guard facilities. I do not know whether you had to give them hardship pay or whatever to get them to be there and let you fly them. [Laughter.]

USE OF P-3 AIRCRAFT

Senator ANDREWS. Remember that discussion. You stated your willingness to go into a new aircraft type, if, as you said, it was going to work for you. It does not make much sense to me, not only as a Member of the Senate and a member of the Budget Committee who is trying to get the expense of this Government down, to have the Navy flying those junior AWAC's planes around for practice when they could be used in conjunction with the Coast Guard to interdict drug shipments. You did not seem to want to go that route.

Now, instead of the Coast Guard having any impact at all from Navy or Air Force aircraft, the lead is being taken away from you by Customs. Customs feels the P-3 is an effective tool in the drug war. The question that occurs to me and must occur to a number of others, Admiral, is how come you slept this one away? Why has not the Coast Guard pursued with the Department of Defense similar use of the P-3 if you did not want to use the Hawkeye? Why should Customs have to develop a P-3 aircraft wing with all of the necessary support costs when the Coast Guard has the support facilities and personnel currently in place, and why go with the P-3 and have it outfitted, reradar it, do a whole bunch of other things when you could have used what we now are using in just training exercises? Where have you been while this has been going on? And why do we suddenly need an air wing of the Customs or the Air Force to do the work that it would seem very logically you should do in protecting our country from increased drug traffic?

Admiral GRACEY. I could not have asked the question better myself, Senator.

Senator ANDREWS. I can pose the question. I can sure tell you what you ought to do, but the question, it gets down to that basic question, why the devil didn't you do it?

Admiral GRACEY. I was going to give you an answer to that, sir. There was one word you used earlier in your question, and I do not remember whether you asked why we swept it away or slept it away. Either way it is a good question. We did not sweep it away, and we did not sleep it away.

The aircraft you are talking about, Senator, if I can go back to the former discussion to which you were alluding—the E-2C. The question was, did the Coast Guard want to have a fleet of E-2C's to fly for us. My answer to you at the time, Senator, was for the same amount of money I could get more C-130's, and I could do the job that needed to be done better. Furthermore, I would have a multimission airframe that could do some of our other missions too.

Senator ANDREWS. You are getting some of those C-130's. The question was not for the same amount of money, because those Hawkeyes are already being flown.

They are being flown by a sister service, and they are chasing dummy decoys out there to provide training for the Navy when they could just as well be with your pilots, their crews getting their training, chasing actual drug traffickers, and maybe giving us a fix on some of them we are not getting now.

Admiral GRACEY. I was going to come to that, Senator. I was alluding——

Senator ANDREWS. I just wanted to make sure we were steering you in the right direction.

Admiral GRACEY. We are going there, Senator. Bear with me for a minute if you can. I thought the last proposal was for us to add E–2C's.

And the reason I am referring to that is that the present program, as I understand it, does have in mind ultimately shifting from P–3's to C–130's. The P–3's that are being discussed here are P–3A's, old P–3's which the Navy is replacing with a newer model. These will be equipped with an F–15 radar. This was done on a trial basis about a year or so ago.

As to the question of where the Coast Guard was in all of this, Senator, I have to tell you that frankly we were not asked whether we would like to have this fleet of aircraft or not. I must say I really do not want to get into a turf battle with anybody, and I do not perceive it as that.

As I understand it, the idea originated in the Congress. We fly long-range aircraft all the time, and the kinds of things these planes are going to do are exactly the kinds of things we do every day with our C–130's and with our medium range search aircraft.

So, in terms of capability, we know how. In terms of resources to make it work, we can't do that. This air wing is going to be supported by Air Force reserve personnel. We have the infrastructure. We have the know-how on how to run long-range searches. We fly them all the time. Some of the P–3's are going to be flying over the same water we are going to be flying over in our aircraft.

Admittedly, we are going to be flying by eyeball until we get the new radars in, but for the amount of money to be spent to put F–15 radars in the P–3's, we could sure put them into the C–130's.

We have the command and control. There is no question that the Coast Guard could handle this operation, given an influx of resources of the type that is being discussed for handing off from DOD to the Customs Service in this regard.

I think, we complement each other. I do not perceive it as a turf fight. It is a question of the logical place to do the work.

In regard to E–2C's, the Navy is flying, Senator. They are helping us a great deal these days. There is a great deal of flight time from the Navy in all kinds of aircraft. Likewise with the Air Force and the Marine Corps. They are all helping us. In particular, the Navy is giving us a great deal of flight time. I cannot tell you what portion is E–2C's or what, but there is a lot of it.

TRANSFER OF ASSETS

Senator ANDREWS. Admiral, again, from a landlocked Senator who happens to be chairman of this subcommittee, the way we look at it, and we do not have any preference on this turf fight, we just want to get the job of drug interdiction done, and done now, and not 5 years down the pike.

We suggested a couple of years ago that there be in effect a transfer of assets or let us say a more efficient use of assets. The assets were there. You do not have to put the radars in those Hawkeyes. They are there. They are being used now for training missions.

We suggest that they be used in the training mission mode under your general command, your general supervision, because I do not think it helps the fight against drug traffic to get too many cooks into the business, so everybody is duplicating everybody else's effort.

At that time you said, no, this will show us too many targets. We do not have enough people to catch them down on the ground. Now, because you backed away from that one, we see another initiative coming up where there is a transfer of DOD assets to equip these overaged airplanes with a radar that is not as effective as the Hawkeye's radar into a plane that is not as good as the C-130's that you were flying and the new ones you are getting.

So we have got the worst of both worlds, and yet we are doing exactly what we suggested some time ago only at a much higher cost. We are transferring assets from DOD into the drug fight. Is there not a better way of doing it than this?

I am surprised that you said that the administration was looking for this fix. That is a heck of a word to use. [Laughter.]

Senator ANDREWS. When they were looking for a way to resolve this problem in the fight against drugs, they did not contact you. I think the first group they would go to when they are trying to put more assets into the fight against drugs coming into this country, particularly in the Caribbean and other coastal areas, would be with the Coast Guard.

Admiral GRACEY. Senator, as far as I know, this did not originate in the executive branch. It originated in the Congress. It originated with Senator DeConcini, and Mr. English in the House. It is essentially their proposal.

Senator ANDREWS. Let me rephrase it to a certain extent. This is the one that got the Secretary of Defense's support. It looks like it would be much more sensible to have the Secretary of Defense come down on the side of using assets that were already there within the Coast Guard.

The legislative proposals around here are a dime a dozen. The ones that catch on are the ones that finally get the Secretary of Defense's support. He did not support the Coast Guard's use of the Navy plane, which is already there, for some reason. I would imagine it was because his briefing indicated that that was not as good as taking these old planes, fixing them up with radar, and having the Air Force Reserve units fly them.

Admiral **Gracey**. Senator, I do not think he was asked that question. I have no doubt—there is not the slightest inkling of a doubt in my mind—that if somebody had gone to the Secretary of Defense and said, "We are going to arrange for one agency in Government outside of DOD to fly some P–3's, and we are also going to arrange for you to get rid of those P–3's, so you can replace them with newer ones because the P–3 is a fine airplane. These happen to be older models. How would you feel about the Coast Guard doing that?" I do not have the slightest inkling of a doubt the Secretary would have jumped on it and said, "Good!" But that was not the option he had, Senator. The option he was given was a fait accompli.

The fait accompli was that we are going to have this Customs air wing, and we are going to have the Air Force Reserve pilots fly it. They are going to do some other things. They are going to look for drugs, but they are going to do some other things. They are going to tie in with some other operations.

It was a nice, neat package, and he was given the option of support it or do not support it. I do not think he had much maneuvering room.

I would also like to correct a couple of other things, Senator, while we are at it. First of all, there is a far cry of difference between asking the Navy to hand over some E–2C's and asking them to take some P–3A's and use them for another purpose. They really do not have—they are just not comparable in the sense of their age and their station in the fleet.

Second, you made a reference to our already having assets. Senator, there is a great misconception floating around somewhere that the Coast Guard can absorb almost anything if we can just get it to them. Sir, we are "absorbed" up over our heads. We have absorbed the aerostats. I cannot tell you how many things we have absorbed in the last couple of years, Senator. There is no way.

We are talking about 60 pilots and 500 crewmen to fly this fleet of aircraft. Even if you were to give it to us, sir, it would take 2 years to get the people. Well, it might not take 2 years to get the people, but it would take 2 years to get these aircraft ready so we could do the job, if you were to lay it on us tomorrow.

If you were to say, "Here is the money, here are the aircraft, here are the money and the positions for the people, I want you to fly them in *x* period." As long as it was not next week, we could fly them.

Senator **Andrews**. In a sense, Admiral, that is what we had in mind. Let me correct one misconception. We were not asking the Coast Guard to go out hat in hand asking the Navy to give up some of their best and brightest new planes.

The concept we had that we put in the report of the subcommittee a couple of years ago is backed up by the fact that Senator Chiles and I both sit on the Defense Subcommittee. We sit on this Transportation Subcommittee. The thing that we do as representatives of the American taxpayers is to try to find the wisest use of the Government assets.

The other responsibility we have is to recognize the priorities we have. Drug interdiction is the top priority. But the trouble is, we did not get the cooperation from you and from others in saying you bet we want the planes. We can take these Navy Hawkeyes.

We are anticipating using the Navy crews on them, because they have got to have the training, but the overall guidance should come from the Coast Guard, because you are leading in the work on drug interdiction and it should have a unified command.

We could in effect with our other hats on, as the Defense Subcommittee tell the Navy, move them down. Do your patrolling, do your training under nominal Coast Guard direction so that you are doing something constructive instead of just simply a training exercise. That is what we had in mind. That is how it would have worked. But you cannot give somebody something to use as an additional asset if he does not want to use it.

Admiral GRACEY. Senator, in effect what you are seeking is happening. The National Narcotics Border Interdiction System brought this coordination together. These aircraft, when they fly on a drug interdiction mission, fly where our operational commander asks them to fly.

What you are seeking is in effect happening. The only thing is, they do not fly out of a Coast Guard air station, and they do not fly under the direct operational command of a Coast Guard officer, but they are flying a great deal to assist us. They are flying in the areas where we say we need help. They tell us when it is available, and we tell them where we need the help, and what we need.

So in effect it is happening. It is not happening in the volume that you sought, I suspect. I admit to not fully understanding what you wanted then. I interpreted what you were saying differently. But, it is working, sir. It is coming out that way.

CRIME BILL IMPACT

Senator ANDREWS. Admiral, the crime bill included the forfeiture provision, which allowed confiscation for operational use of vessels and aircraft impounded at the time of arrest. How will this affect Coast Guard activities? How many pieces of equipment are you going to realize in this fiscal year and next from this change in the law?

Admiral GRACEY. One thing it is going to do for us, Senator, is make it a lot faster to get a vessel when there is an opportunity for us to take advantage of this. There are also funds in there that will help us if we can make a claim on them. You will not see any direct action in the budget in this. If we are going to add assets, we are going to have to add people to operate them.

What we are looking at, though, Senator, is this. We are aware there is more cocaine coming in by fast boat these days, judging by the amount that is being seized at sea in that regard by both us and Customs, and in this recent Blue Lightning operation. I think we are going to be moving into acquiring some assets as appropriate on either a permanent or short-term basis through this process to assist in a particular operation or an extended range of operations.

The operational commander is studying it now and looking at the possibilities. He will make his judgments and his recommendations, but I doubt that you will see anything in the budget that will deal with it.

OPERATIONAL COST OFFSET

Senator ANDREWS. A lot of this you cannot use, obviously, but would you just support a change in the law to allow operational cost offset from aircraft and vessel proceeds?

Admiral GRACEY. I would rather say supplement than offset, sir. I am frightened of offsets, just as I was with the original user-fee proposal, because then we do not really know what we have. We will not know until after the fact what kind of money we have to operate on. Then it is too late.

So I would be happy to see—to have a recognition that those funds have gone into the U.S. Treasury some place, and we are helping to generate it and see that amount added to our appropriation each year.

That is what is happening with the user charges. It will not be an offset. It goes into Treasury as a proprietary receipt. So, my answer to that is, I would rather not have an offset directly in the budget with our appropriation dependent on the amount of that.

USER FEE IMPACT

Senator ANDREWS. Admiral, on another subject, briefly, then I will turn it over to Senator Chiles, the American Association of Port Authorities in a letter to OMB Director Dave Stockman expressed concern about the various transportation user fee proposals.

To what extent has the Coast Guard worked with the Corps of Engineers and Customs to assess the cumulative impact to shippers, especially farmers, of the user fees assumed in the budget? If these agencies are not consulted, is OMB taking a coordinating role on these user fees so we know where they are coming down?

Admiral GRACEY. Yes; OMB is taking a coordinating role, Senator. They are putting all these pieces together. We have worked, I know, with the Corps of Engineers, for example, on making sure our type of fee was compatible with theirs.

One of the things we looked at in setting all these fees was the impact on the industry involved or the ultimate outcome at the end of the line. We concentrated on those things, of course, which were most directly affected by us, but our system for charging fees for foreign vessels, for example, will be very similar to Customs' tonnage fees. There is that relationship. There is a consultation going on.

But as to the impact on the agricultural interests, that is being considered somewhere, I am sure. But it has not had a direct and major effect on the kinds of things we are proposing. We have sought to hold the fees at a reasonable level and have not tried to recover everything.

You may remember our original proposal several years ago was to try to recover, I think it was half of our direct OE. It was a major piece of it. We are not even close to trying to do that. We recognize we have to have reasonable fees, and anything we recover is going to be a relief on the general taxpayer.

LAKE SAKAKAWEA LIGHT SIGNALS

Senator ANDREWS. Another initiative from 2 or 3 years ago that impacts our immediate area, your light signals on Lake Sakakawea are for navigation out there. No news is good news. You put them in. We have not heard any complaints, so I assume you are keeping those lights on, and you are keeping those navigation markers going out on Lake Sakakawea. Is this the case as you understand it?

Admiral GRACEY. I do not know the answer, Senator, but I would like to answer with a generality. I would like to point out the navigation system in general, that is, we operate by far the largest aids to navigation system in the entire world, and you do not hear very much about it any place.

Senator ANDREWS. The only thing is, the only aids to navigation that the chairman of the subcommittee is interested in are on Lake Sakakawea. [Laughter.]

I would assume that if anything was going wrong, some of your assistants at the table would have told you about that particular one. [Laughter.]

Admiral GRACEY. The point I was going to make, Mr. Chairman, is that we are doing such a good job, everything goes fine. I am sure they are working fine.

Senator ANDREWS. That will be reassuring to our friends who enjoy the recreational facilities on Lake Sakakawea. That is a big body of water, and that is a key and important safety feature, what you are doing up there. We think you are doing a great job. We want to keep it that way.

Admiral GRACEY. We may be contracting those out some time, Senator.

Senator ANDREWS. If it works, do not fix it. It is working pretty well now, so keep it the way it is going. We like it.

Admiral GRACEY. I am making particular note of that comment, Senator. Thank you. [Laughter.]

Senator ANDREWS. Senator Chiles?

FISCAL YEAR 1986 BUDGET REQUEST

Senator CHILES. Thank you, Mr. Chairman.

Admiral, your overall 1986 budget request of $2.5 billion shows a small $14 million increase over 1985, which is seven times less than would be required to keep up with a 4 percent inflation adjustment.

Within those totals, the Coast Guard construction program drops $43.4 million from last year. Your personnel level dropped 833 full-time permanent positions, including a 620-position cut in your military positions.

As you know, the Coast Guard authorization requires at least 39,150 military positions to be funded in 1986. But your request of $773.8 million for military positions will only fund 38,220 military positions, 2 percent or 930 fewer than authorized.

Admiral, you know and live with the fact that the Coast Guard is the fifth branch of the Armed Forces. I think you do know that the President has requested an increase of 14,000 positions for the Navy, a 10,000-position increase for the Air Force, a 19,000-position increase for DOD civilian employment, and a 1,000-position increase for the Marines.

Do you believe that an essentially flat Coast Guard budget with cuts in construction and military strength is adequate to do the job?

Admiral GRACEY. I guess, Senator, that depends on one's definition of the job. In my view, and I am admittedly somewhat biased on the subject, the answer is, "No, sir." I do not think it is at all adequate to do the job that is out there to be done, or the job we are capable of doing. But as I said in my opening statement, the balance needed to be struck. Someone in the higher seats of formulation decided that this was the level at which the Coast Guard should operate.

When I was a field commander, I used to go up to the Commandant in Washington on budgetary matters. People would ask me about the budget. I would say, "That is the Commandant's problem. My job is to do the best I can with what I have." I guess I am somewhat in that position now. But the bottom line answer to your question is, "No, sir."

Senator CHILES. Well, I note that you say in your statement that even with a no-growth budget we will sail more ships, fly more planes than last year, and we will do all these things by working smarter. How long can you work smarter and kind of do the job?

Admiral GRACEY. Well, Senator, if we keep being required——

Senator CHILES. If that is true, maybe we had better make some of the other services work a little smarter if they can do more with less.

Admiral GRACEY. When I say we are going to fly more planes and operate more ships and more vessels, that is correct. What growth in personnel there is in the budget is in personnel designated for flying airplanes and operating patrol boats, and to do that sort of thing. But that is more than offset by cuts in training staff, other support and other operations.

IMPACT OF BUDGET REDUCTIONS

Senator CHILES. That is what I think. I believe this budget does impact the Coast Guard's abilities to fight the war on drugs. For example, eight new drug patrol boats that would come on line in 1986 can be operated only 120 days, rather than the 180 days that the Coast Guard originally planned.

Two additional C-130's needed for radar surveillance and authorized are not funded, although I understand you did request it. Three additional radar balloons needed to bring you up to your needed complement of eight are not requested. No request for the 50-plus patrol boats, in spite of the fact that the Customs Service now has a fleet of seven that have been proven effective.

Admiral, do you believe that with these additional resources, the Coast Guard can become more effective in its war on drugs?

Admiral GRACEY. The additional resources you described, Senator, would obviously help. Anything within reason that we can use wisely to enhance our ability, of course, will help. The aerostat that you mentioned; I do not know what three you are talking about, but I would point out that the Congress directed last year that we absorb three aerostats, and the leasing of two. I keep seeing letters referring to it having been funded. Senator, it was not funded. We have absorbed it.

Senator CHILES. That brings you up to five, but my understanding is, with the total coverage you need eight.

Admiral GRACEY. Ultimately we would. Just before I came this morning, Senator, I learned that we have approval to go sole source for the three, and that means we will have relatively prompt acquisition of them. Then we are looking at the additional three. It will take a while to get them.

Senator CHILES. You have been given approval to go sole source? I have written the Vice President and asked him if he would try to help expedite this so that you could.

Admiral GRACEY. I saw your letter, Senator. I thought you would be interested in knowing that I talked to the Deputy Secretary just before I left, and he has informed me that we are going forward.

Senator CHILES. That certainly should speed up that purchase, then.

Admiral GRACEY. It will cut about a year off the acquisition. Yes, sir; but we still do not have the money.

COOPERATION WITH DEFENSE AGENCIES

Senator CHILES. I know that your 1986 budget proposal provides funds for tactical law enforcement teams to be assigned to Navy platforms patrolling the Caribbean and the south Florida waters.

This Navy and other defense agency cooperation is made possible by the Posse Comitatus amendments of 1981 which permit the military to pass on information, advise other agencies, and permit platforms to be used for drug interdiction.

Admiral, what can you tell us about your cooperation with other defense agencies in the drug war? How many hours of Navy platform time are you projecting for the years of 1985 and 1986 for your tactical law enforcement teams?

Admiral GRACEY. I think I may have to give you the hours for the record, Senator, but I can tell you we are working very closely with them. We have our law enforcement detachments and what we call our tactical law enforcement teams. They are in place. They are working all the time.

I have a piece of paper here, and I will submit it to you for the record. But I have it color coded here. Each one of those orange marks on that page, Senator, is where a law enforcement detachment off a Naval vessel participated in a seizure. This bottom list here is within the last year.

[The information follows:]

The Navy platform time projected for 1985 and 1986 for Coast Guard law enforcement detachments is 460 deployment days. These projections are based on 1984 data. The actual platform time will depend on the number of platforms of opportunity transiting areas of interest, patrol lengths, and other factors.

Navy Assistance to Coast Guard Drug Enforcement

	Vessel Name	Nat	Date Seized	Pounds	Arrests	Navy Action
	MISS CECILE	US	5/28/82	30,000	4	P-3 sighted/Escort/Tow - USS FARRAGUT
	RIO PANUCO	XX	5/28/82	102,650	16	Sighted/Escort - USS FARRAGUT
	BENNY	XX	6/4/82	21,920	7	Refueled WPB - USS MCDONNEL
	YVETTE	US	6/6/82	13,000	7	Tow/Escort - USS FIDELITY
	MONT BORON	XX	9/10/82	Residue	11	Show of force - USS CLIFTON SPRAGUE
*	RECIFE	XX	11/20/82	50,650	11	TACLET - USS MISSISSIPPI
	CIVONNEY	XX	3/16/83	40,000 46.2 lbs cocaine	21	P-3 sighted
*	GATOR	US	4/9/83	4,000	5	LEDET - USS AQUILA
*	XIPHIAS	US	4/21/83	21,000	5	LEDET - USS ARIES
	ALEX	PM	6/28/83	100,000	16	Escort - USS CLAUDE V. RICKETTS
*	RANGER	XX	7/15/83	57,265	9	TACLET/USE OF FORCE - USS KIDD
*	T-GRIT	PM	8/3/83	28,000	14	TACLET - USS BARNSTABLE COUNTY
*	FL-2940-EM	US	8/4/83	3,500	3	TACLET - USS PEGASUS
*	OCEAN QUEEN	US	10/15/83	Residue	6	LEDET - USS SPARTENBURG COUNTY
*	FL-7277-EM	US	10/22/83	Residue	3	LEDET - USS SPARTENBURG COUNTY
*	WAMMER JAMMER	US	11/3/83	500	2	LEDET - USS AUBREY FITCH
*	FL-1988-F	US	1/9/84	2,000	2	LEDET - USS ARIES
	RAMA CAY	PM	2/2/84	23,000	8	P-3 sighted
	GRIFFON	US	3/20/84	29,484	3	P-3 sighted
	SPORT FISHING	US	4/24/84	5,000	6	Tow - USS PAIUTE
*	GULF STAR	US	5/1/84	50	5	TACLET - USS MCINERNEY
*	SEA WALTZ	US	5/15/84	16,000	3	TACLET - USS REID
	BISMARK	XX	5/20/84	60,905	8	P-3 sighted
*	FL-6638-AN	US	7/2/84	1,050	2	LEDET - USS AQUILA
	MAX	US	8/12/84	6,000	5	Tow/Escort - USS BARNEY
*	SAN ANDREA	PM	8/12/84	15,000	10	LEDET - USS GEMINI
	PENIEL	HA	10/8/84	250	1	Sighted - USS TAURUS
*	ZULIA I	XX	11/19/84	1,350	3	LEDET - USS HERCULES
*	MAR ANTIL	UK	11/23/84	70,950	13	LEDET - USS HERCULES
*	CONTESSA	US	11/23/84	5,920	3	LEDET - USS GEMINI
	LOLA	US	11/30/84	3,000	3	Tow - USS DEYO
*	SILVER STAR II	PM	12/10/84	21,350	5	LEDET - USS TAURUS
	PACIFIC STAR	PM	12/31/84	44,000	7	P-3 sighted
*	FL-7552-F	US	4/15/85	5,000	2	TACLET - PB 731 and PB 738

TOTALS: 34 Vessels 782,797 lbs marijuana 229 Arrests
46.2 lbs cocaine

NOTE: *'s indicate those seizures conducted by a Coast Guard TACLET or LEDET while assigned to a Navy vessel.

Senator CHILES. That is one of the reasons I am concerned about the proposed 833-position cut in your 1986 budget. It is the need, I believe, for more cooperation with the Navy and therefore more tactical law enforcement units. Admiral Cueroni of the Seventh District told me that another five tactical law enforcement units could be effectively used in the Seventh District.

I do not know what your views on that matter are.

Admiral GRACEY. I would defer to Admiral Cueroni. He is the "pooh-bah" of that area. It is his responsibility. I am sure that is true. We could also use some off the Pacific coast as well.

THREE-PART TABLE

Senator CHILES. I know the House each year asks you for the three-part table to show your original request, the request to OMB and the final figures as included in the President's budget. We would like to ask to have that table also for our use.

Admiral GRACEY. I would be happy to provide it, sir.

[The information follows:]

DEPARTMENT OF TRANSPORTATION
U. S. Coast Guard
Fiscal Year 1986
Three Stage Budget Request
($000)

Appropriation	USCG Request To OST	OST Request To OMB	President's Budget
Operating Expenses	$1,854,654	$1,807,806	$1,767,101 1/2/
Acquisition, Construction, and Improvements	562,800	421,900	303,058
Alteration of Bridges	15,300	15,300	5,200
Retired Pay	351,800	351,800	351,800
Proposed Legislation			-11,300
Reserve Training	65,967	60,271	61,502 3/
Research, Development, Test and Evaluation	35,000	25,000	23,000
Boat Safety Account	45,000	30,000	28,625 4/
Offshore Oil Pollution Compensation Fund	1,000	1,000	1,000
Deepwater Ports Liability Fund	1,000	1,000	1,000
Pollution Fund	7,000	7,000	7,000
Gift Fund	80	80	80
Total	$2,939,601	$2,721,157	$2,538,066
Full-Time Permanent Positions			
Military	39,847	39,201	38,259
Civilian	6,046	5,860	5,723
Full-Time Equivalent Positions			
Military	39,408	38,803	38,220
Civilian	5,664	5,573	5,571

1/ Excludes $15,000,000 to be derived from the Boat Safety Account.

2/ Includes $33,616,000 for annualization of FY 1985 pay raise.

3/ Includes $501,000 for annualization of FY 1985 pay raise.

4/ $15,000,000 to be provided from the Boat Safety Account to the Operating Expenses Appropriation.

Operating Expenses
($000)

Activity	USCG Request To OST	OST Request To OMB	President's Budget
Search and Rescue	$ 448,717	$ 436,395	$ 436,868
Aids to Navigation	411,324	400,027	384,168
Marine Safety	131,876	128,281	131,055
Marine and Environmental Protection	129,876	126,281	126,526
Enforcement of Laws and Treaties	523,503	509,126	498,722
Ice Operations	37,393	36,366	31,740

Activity	USCG Request To OST	OST Request To OMB	President's Budget
Military Readiness	74,786	72,732	74,991
Headquarters Administration	112,179	109,098	98,031
Total	$1,869,654	$1,818,306	$1,782,101 1/

1/Includes $15,000 transfer from Boat Safety Account and a pay raise requirement of $33,616.

Acquisition, Construction, and Improvements
($000)

PROJECT	Coast Guard Allocation of Totals Requested Request To OST	Request To OMB	President's Budget
I. VESSELS:			
A. ACQUIRE VESSELS AND EQUIPMENT:			
1. 55-Foot Buoy Boat (ANB) Procurement	5,200	2,600	--
2. 140-Foot Icebreaking TUG (WTGB) Procurement	21,400	21,400	--
3. Shipboard Helicopter Restraint System Phase II	3,600	3,600	--
4. Three River Tenders (WLR) for Second Coast Guard District	13,600	4,600	4,600
5. Helicopter Traversing Systems for Cutters	8,400	--	--
B. REPAIR, RENOVATE OR IMPROVE EXISTING VESSELS AND SMALL BOATS:			
1. 210-Foot Medium Endurance Cutter (WMEC) Mid-Life Maintenance Availability (MMA)	26,400	35,800	25,800
2. 378-Foot High Endurance Cutter (WHEC) Fleet Renovation and Modernization	113,800	72,300	72,300
3. Seagoing Buoy Tenders (WLB) Service Life Extension Project (SLEP)	7,300	--	--
4. Icebreaker Science Support Improvements	1,700	300	--
5. Northwind Safety and Supportability Upgrade	5,500	5,500	5,500
Subtotal Vessels	206,900	146,100	108,200
II. AIRCRAFT:			
A. ACQUIRE NEW AIRCRAFT AND INCREASE AVIATION CAPABILITY:			
1. Short Range Recovery (SRR) Helicopters (HH-65A) Procurement - Escalation and Support	34,600	34,600	31,600
2. Maintain Long Range Search (LRS) Capability - Phase IV	35,800	--	--
3. HC-130 1500 Series Outer Wing Replacement	1,000	1,000	1,000
4. HU-25A Spares Provisioning	21,300	12,000	12,000
Subtotal Aircraft	92,700	47,600	44,600

PROJECT	Coast Guard Allocation of Totals Requested		
	Request To OST	Request To OMB	President' Budget
III. COMMAND, CONTROL, AND COMMUNICATIONS AND RELATED SERVICES:			
1. SRR Helicopter Forward Looking Infra-Red (FLIR) Sensors - Phase II................	18,000	18,000	6,000
2. HC-130 Forward Looking Airborne Radar (FLAR) - Phase III......................	19,000	19,000	16,958
3. Aerostat Radar Systems - Phase I.........	11,500	11,500	--
4. Standard Terminals for Vessels - PH II...	3,600	3,600	3,600
5. Search and Rescue Satellite-Aided Tracking (SARSAT)........................	4,100	4,100	--
6. Minicomputer Procurement..................	6,500	8,500	--
7. Dillingham, AK - Northern Bristol Bay VHF-FM Coverage...........................	500	500	500
8. Information Resource Management Systems..	1,500	1,500	1,500
9. Secure Voice Communications Capabilities Phase II................................	--	6,800	4,800
10. DOT Financial Information System.........	--	--	3,000
11. Elizabeth City, NC - Aircraft Repair and Supply Center (AR&SC) - Replace Computer System................................	4,000	4,000	--
12. Standard Automated Accounting System.....	13,000	--	--
Subtotal Command, Control, and Communications and Related Systems.	81,700	77,500	36,358
IV. SHORE FACILITIES AND AIDS TO NAVIGATION:			
A. SHORE - GENERAL:			
1. Minor AC&I Shore Construction Projects...	9,400	9,400	7,100
B. SHORE - AIR STATIONS:			
1. Traverse City, MI - Air Station Groundwater Purging.......................	3,500	3,500	1,800
C. SHORE - SUPPLY CENTERS/SUPPORT CENTERS /YARD:			
1. Kodiak, AK - Support Center - Health Care Facility................................	9,900	9,900	6,400
2. Alameda, CA - Support Center - Replace Seawall and Moorings.....................	8,300	8,300	8,300
3. Baltimore, MD - CG Yard - Upgrade Mechanical Shops.........................	2,200	2,200	--
4. Baltimore, MD - CG Yard - Upgrade Portal Crane No. 5.............................	1,600	1,600	--
5. New York, NY - Support Center - Central Fire Alarm System.......................	900	900	--
6. Seattle, WA - Support Center Renovation Phase I................................	6,500	6,500	3,850
D. SHORE - TRAINING FACILITIES:			
1. Petaluma, CA - Training Center Construct ET/TT Classroom Building	14,700	14,200	14,200

	Coast Guard Allocation of Totals Requested		
PROJECT	Request To OST	Request To OMB	President's Budget
2. Portsmouth, VA - Command, Display and Control (COMDAC) Support Facility - Ph IV	3,800	3,800	3,800
3. Yorktown, VA - Reserve Training Center Construct Medical/Dental Building........	2,300	2,300	--
E. SHORE - PERSONNEL SUPPORT FACILITIES:			
1. Minor AC&I Shore Construction Projects Unaccompanied Personnel Housing (UPH)....	1,800	1,800	1,100
2. Montauk, NY - Construct Station Barracks /Dining Facilities......................	1,200	--	--
3. Public Family Housing...................	13,500	10,000	10,000
F. SHORE - GROUPS/BASES/STATIONS/MSOS:			
1. Long Beach, CA - 270-Foot Medium Endurance Cutter (WMEC) Shore Support....	5,900	5,900	5,900
2. San Francisco, CA - Station Fort Point Mooring Improvements....................	2,300	2,300	2,300
3. Panama City, FL - Upgrade Facilities.....	3,600	--	--
4. South Portland, ME - Improve Moorings....	4,800	4,800	--
5. Taylors Island, MD - Rebuild Station.....	4,000	--	--
6. Grand Haven, MI - Seasonal Facilities Consolidation..........................	3,300	3,000	2,200
7. St. Clair Shores, MI - Consolidate Facilities..............................	2,500	2,500	--
8. Short Beach, NY - Rebuild Station........	3,400	2,800	2,700
9. Lorain, OH - Replace Station Building....	1,900	1,900	--
10. Block Island, RI - Renovate Station......	1,500	--	--
11. Georgetown, SC - Construct Permanent Station................................	2,000	--	--
12. Port Isabel, TX - Covered Mooring and Boat Ramp..............................	1,200	--	--
G. AIDS TO NAVIGATION FACILITIES:			
1. Lighthouse Automation and Modernization Project (LAMP)..........................	2,400	2,000	2,000
2. Minor Aids to Navigation Solar Power Conversion..............................	1,300	1,300	1,300
3. Waterways Aids to Navigation Projects....	4,000	2,700	2,700
4. Demopolis, AL - Establish Aids to Navigation Facility (ANFAC)..............	2,200	2,200	2,000
5. Port Clarence, AK - Rehabilitation of Loran-C Station.........................	3,100	3,100	3,100
6. San Francisco, CA - Vessel Traffic Service (VTS) Radar and Communications Equipment Replacement.....................	1,400	1,400	--
7. Peoria, IL - Consolidate Facilities......	1,700	1,700	1,700
8. New Orleans, LA - VTS Surveillance Phase II................................	3,100	3,100	3,100

	Coast Guard Allocation of Totals Requested		
PROJECT	Request To OST	Request To OMB	President's Budget
9. Loran Station Yap - Antenna Replacement..	1,700	1,700	1,700
10. Loran-C Solid State Transmitter Site Preparation..............................	700	700	700
11. VTS Standardized Computer Replacement....	2,900	--	--
12. Replace Transmitters at Three Northern Pacific (NORPAC) Loran Stations..........	5,100	--	--
Subtotal Shore Facilities and Aids to Navigation Facilities.............	145,600	117,500	87,950
IV. ADMINISTRATION AND SURVEY AND DESIGN:			
A. ADMINISTRATION AND LOGISTICS..........	22,200	22,200	19,250
B. SURVEY AND DESIGN ACTIVITIES..........	13,700	11,000	6,700
Subtotal Administration and Survey and Design..........................	35,900	33,200	25,950
SUMMARY AC&I:			
Subtotal Vessels......................	206,900	146,100	108,200
Subtotal Aircraft.....................	92,700	47,600	44,600
Subtotal Command, Control and Communications and Related Systems.	81,700	77,500	36,358
Subtotal Shore Facilities and Aids to Navigation Facilities..............	145,600	117,500	87,950
Subtotal Administration and Survey and Design.........................	35,900	33,200	25,950
TOTAL AC&I....................	562,800	421,900	303,058

Reserve Training
($000)

Activity	USCG Request To OST	OST Request To OMB	President's Budget
Initial Training.................	$ 4,625	$ 4,638	$ 4,922
Continuing Training..............	39,132	34,374	34,959
Operating and Maintenance of Training Facilities............	11,620	11,459	11,580
Administration...................	10,590	9,800	10,041
Total.......................	$65,967	$60,271	$61,502 1/
Selected Reserve Strength........	12,500	12,500	12,500

1/Includes a pay raise requirement of $1,969.

Alteration of Bridges
($000)

Bridge Name	USCG Request To OST	OST Request To OMB	President's Budget
Willamette River, Portland, Oregon (Burlington Northern RR).........	$15,300	$15,300	$5,200

PERFORMANCE LEVELS

Senator CHILES. I would also be interested in any comments you would care to make on how the differences between your original request and the final request now pending before the committee will affect your performance levels in your various program areas such as search and rescue, drug interdiction, marine safety, and so on.

Admiral GRACEY. Let me start with drug interdiction, sir. You have already covered that nicely, but I think just to summarize there the impact that you noted. The new patrol boats will be single-crewed rather than double-crewed. Of course, there is an impact there.

We are going to have to decommission two of our high-endurance cutters on schedule rather than extending them until their replacements arrive. Of course, that puts us down below the 30-ship congressional mandate and also takes two cutters off the line.

Obviously, the closings on the Great Lakes will have some impact, although we believe we can cover that, obviously not to everybody's satisfaction, but within our broad standards.

And another primary area where we are getting wounded is in the Marine Safety Program. This is the fifth straight year we have gone down in our Merchant Marine Safety Program. We have cut some 400 or so people out of that program over the last 4 or 5 years. Frankly, sir, I think we are at the absolute end on that. That is an important program. I do not think we can go any further.

Search and rescue is one that we will do our best to maintain always, even when we have things like drugs and defense. Yes; those are top priority, but our instincts are to save lives, and we do that. If we are not going to be able to man a particular station up to full capability, we will just not man it at all, and take the people and put them where we can man something properly. Essentially that is the kind of thing we are doing in the Great Lakes.

I am concerned about our training cuts, and I am concerned about the impact. I am concerned about the fact that our Selected Reserve strength is not growing. We are standing still there. But there are some pluses in defense readiness as well.

In our Aids to Navigation Program we are going to do some contracting out on a trial basis. The anticipatory cuts from A–76 have eaten into a lot of our programs. Hopefully we will be able to get some of those contracts out and get some of those people back. In the meantime, most of this year we will not.

Some of our equipment buys are being curtailed a bit, but we are going ahead with rescue swimmers. We are going ahead with the aerostats. We have our next new tugboat, a 140-footer, coming. We are buying some secure voice installations. We are buying some side arms, the new 9 mm sidearms.

Meanwhile, our new patrol boats and the 270's and the helicopters are coming along the line, so there is a balance. It is a mixed bag, our operating expenses particularly.

The areas that I have described overall are the kinds of places where we are feeling pinched.

COCAINE TRAFFICKING

Senator CHILES. Admiral, I want to congratulate you on the Coast Guard's role in Operation Blue Lightning, which ended last Thursday, which netted 5,500 pounds of cocaine and 33,872 pounds of marijuana. I understand the operation included some 775 U.S. and Bahamian agents from 26 agencies, including Florida State and local units.

The operation included a military sweep of known Bahamian island staging areas and sea blockades to catch what was pushed off the islands. The operation was planned by the Miami NNBIS, chaired by Coast Guard Admiral Cueroni. This operation demonstrated good cooperation from the Bahamian Government. It also showed a great deal of cocaine is now coming in by sea.

Are cocaine shipments being diverted from air, or is it so much coming in now that it comes in both air and sea now?

Admiral GRACEY. My best guess, Senator, is that it is the latter. It is coming in both ways. I do not know what is happening with the air trafficking level, to tell you the truth.

I do not really know about that, but we do know there seems to be a great shift toward vessels. It may be that we are just getting more information—our intelligence network is so much better than it was.

Our cooperation with other agencies is good, and it may be just that we are getting better information, and therefore we are focusing on what has been going on all along. But I am inclined to think it is increasing. That is the best information I have.

Senator CHILES. Admiral, I know, because of security leaks on the operation it was started 3 days earlier, and over 20 percent of the cocaine was seized in the first 48 hours when the druggers were still off balance. I am certainly concerned about these leaks.

I am sure there is an investigation under way. When it is complete, I would like a briefing in my office on this matter.

Admiral GRACEY. Yes, sir; we would be happy to do that. There are some details we probably should talk about privately.

Senator CHILES. I understand that.

Admiral GRACEY. I can say that with the number of agencies involved, and two countries, and so forth, and really the first time this has been tried, we expected there might be some leaks.

I think what is really encouraging is the ability that was built into all of this with which the NNBIS coordinator, Admiral Cueroni, and his counterparts in the Bahamas and in the other agencies were able to shift gears and move rapidly once they found there was a leak. They had some really rather significant systems set up for shifting gears.

"OK, we have heard this leak, so we will shift to that." It seemed to be very effective. We will give you more details in private, sir.

Senator CHILES. All right, sir.

USER FEE LEGISLATION

Admiral, switching over to user fee legislation, as you may know, the National Marine Manufacturers Association is in town. One of their main interests is full implementation of the Wallop-Breaux legislation which establishes a mechanism to use taxes on the boating community to fund boating safety programs and fishery enhancement programs.

That fund is projected to have a $150 million balance at the end of fiscal year 1985, because less than half of the boating safety money was spent and none of the fisheries money has been spent.

The boating community feels like they are already being taxed and the new Coast Guard user fee bill that would put a $20 tax on all recreational boats under 40 feet and a $40 tax on all recreational boats over 40 feet is not only unwelcome but in the view of some is a form of double taxation.

Other than raising revenue, what is the justification for the proposed Coast Guard user fee bill?

Admiral GRACEY. Of course, raising revenue, I guess, is one way to express it, and certainly anything that brings money in is raising revenue, but not in the sense of taxation. What you have going here are essentially two objectives.

One is to take the burden of services provided to a specific group of users off the back of the general taxpayer. Let those who are using the service help to fund it. I am saying, "help to fund it" because rarely is it going to cover the full cost.

Second, there is the idea that when things are free, people will tend to ask for more and more. With the fee being charged, we feel that people will tend to be more moderate in the additional services they would like to have from the Government.

There is a philosophical difference, as I understand it, between a tax and a fee. With a tax, you are required to pay a certain amount of money, and you do not know what it is going to be used for. It is just going into the Government, coming out the other end some place. With a fee, you know what it is for. You have the option to use the service or not. If you choose to use it, then you have accepted that you are going to pay for it.

USE OF BLIMPS

Senator CHILES. Admiral, I notice your budget request included $1.2 million for the lighter-than-air research. I know this is a continuing research project. What have you learned by prior years' expenditures on this program? And what additional information will the $1.2 million request bring us? When can we expect a decision from the Coast Guard on whether blimps have an operational role to play?

Admiral GRACEY. What we have learned in prior years, Senator, is that the modern day blimp is a very, very remarkable piece of equipment. We can do things from it that we would not have dreamed of. We can lower people onto boats. We can make rescues at sea.

We know, of course, that you can go out and stay there for a while. You can hover or patrol at slow speeds. We know just enough to whet our appetite to want to go further, and our work has also whetted the Navy's appetite. They are following very closely what we are doing.

What we are planning to do this year is to modify a lighter-than-air vehicle for our missions, to train some of our own pilots and have them go out and practice some of the things we perceived could be done with it during our initial trials. We will actually put it through an operational test, do some drug surveillance with it, and so forth.

One of the places we are worried about is up and down the coast of Florida, that raceway between the Bahamas and Florida. It is a marvelous place to see what we will get out of that surveillance device. Likewise, of course, as with all of our drug activity and law enforcement activity, it translates directly into defense readiness.

Our new Maritime Defense Zone responsibilities are almost directly translatable from our drug enforcement. This will pay dividends in the defense arena as well, we are convinced. We are trying to find out for sure whether what we think is true really is.

Senator CHILES. When do you think you will know?

Admiral GRACEY. We will have some very good information based on what we learn at the end of this year. I would expect my successor, and that is not as far away as you might think, Senator—it is only a year away—early on will be making some decisions about lighter than air, just as I did when I came in.

My decision was to go ahead with it and see what we could get from it. I think it has a lot of promise.

PREPARED STATEMENT AND SUBMITTED QUESTIONS

Senator CHILES. Thank you, Admiral. I will have some additional questions for the record.

Also, Chairman Andrews, Senator Byrd, and Senator D'Amato will have additional questions. Senator Packwood wished to submit a statement, and that will be placed in the record.

[The statement and the questions, which were not asked at the hearing but were submitted for response for the record, follow:]

STATEMENT OF SENATOR BOB PACKWOOD

Mr. Chairman, this morning you will hear testimony concerning the fiscal year 1986 appropriation for the U.S. Coast Guard. My purpose is to urge you, as well as the entire committee, to provide sufficient funds to meet the basic needs of the Coast Guard.

I have reviewed the administration's budget request, and found that it would require a reduction in Coast Guard personnel, at a time when the Coast Guard's responsibilities continue to expand. Its role in search and rescue, national defense, fisheries enforcement, and drug interdiction is greater than ever. While the administration's proposed budget for the other armed services calls for an increase of about 40,000 people, the Coast Guard will face, unless funds are restored, a reduction of 1,087 military and civilian people during fiscal years 1985 and 1986.

Last year, I authored a bill which is now public law, that mandated a military and civilian personnel floor. Specifically, it called for 39,150 military personnel, and not less than 5,484 civilian employees. Even at these levels, we anticipated that the Coast Guard would be stretched thin. But, we were told by the Coast Guard that they could get the job done.

In my experience, the Coast Guard does not overstate its needs. It is, and prefers to remain, a "lean and mean" force. But the administration request stretches it just too thin. I am not asking for an expansion of the Coast Guard, although I think that could be easily justified. Instead, I am only seeking sufficient funds to allow the Coast Guard to continue operations at its current levels. Specifically, the amount I am requesting is $32 million in addition to the administration's budget request.

I believe the Coast Guard's request, which is also my request, is supported by many Senators and Congressmen, and if granted, could easily pass Congress.

QUESTIONS SUBMITTED BY SENATOR ANDREWS

A-76 CONTRACTING OUT

SENATOR ANDREWS: Last year's budget assumed that studies would be conducted to determine where cost-savings could occur by contracting out Coast Guard activities. A reduction of $313,000 and 582 positions was originally assumed for FY 1985. What will be the actual personnel and dollar savings? This year's budget contemplates savings of $3.75 million ($1.2 of which comes from law enforcement) and an additional 333 positions. Given the time it has taken to implement A-76, aren't these assumptions overly optimistic? What specific law enforcement activities are to be contracted out?

ANSWER: We currently have 1,689 billets/positions under A-76 review and expect to achieve our FY 1985 anticipatory reductions in full time positions (FTP). Until the process is complete we will not know what FY 1985 dollar savings will be realized.

Because of the time involved in performing A-76 reviews, we will be delayed until March 1987 in meeting our FY 1986 reductions.

Law enforcement is an inherently governmental activity and as such is exempt from A-76 review. We do not intend to contract out our law enforcement responsibilities. A-76 savings identified in our budget with the Enforcements Laws and Treaties program are indirect cost allocations and relate to support personnel.

SENATOR ANDREWS: Reconcile the potential incongruity of: 1) a proposal to contract out almost $1 million of search and rescue support activities; 2) the collection of user fees for certain search and rescue operations; and 3) the increased level of spending in FY 1986 for search and rescue? Are we spending more to collect fees while at the same time related tasks are done by contractors?

ANSWER: The increased level of spending reflected for search and rescue is an estimate based on the assumption that a growth in population and improving economic conditions will lead to an increase in boating activity and the higher levels of exposure and risk that accompany such activity. The proposed user fees would cost the average boater less than $25 annually, and would not deter people from boating.

The Coast Guard does not contract out the performance of search and rescue operations, and will continue to respond to all calls for assistance. However, when the Coast Guard is able to determine that a specific case is not life-threatening and there is a qualified commercial operator who serves the area, the Coast Guard will try to refer the case to a commercial operator. If one can provide the service, the Coast Guard will turn the case over and will continue to monitor it until the case is concluded.

The $1 million of A-76 savings related to the Search and Rescue (SAR) Program result from a reduction in the indirect or overhead costs associated with personnel who support the SAR program indirectly. Except for the Great Lakes consolidation, there will be no reduction in Coast Guard SAR program operations or personnel levels.

User fees are not directly related to our budget. The purpose of user fees is to recover a portion of the costs incurred by the Coast Guard when the services performed provide special benefits to a limited number of users. Cost recovery through user fees is based on the assumption that it is more equitable for the cost of services which provide special benefits to a limited number of recipients, over and above the benefits received by the public at large, to be paid by those who benefit from them rather than to burden the general taxpayer. The costs for collecting user fees are not included in the proposed search and rescue spending levels, but are included in the user fee legislation recently introduced in the House of Representatives under H.R. 1936.

Although these activities may appear to be incongruous on the surface, they are consistent and reconcilable.

SENATOR ANDREWS: Why will it cost $367,000 for travel to administer the A-76 Program? How does this compare to other Department of Transportation (DOT) modes? Other federal agencies?

ANSWER: The $367,000 requested for the A-76 program will be used as follows: $167,000 for seven procurement personnel to be located in field contracting offices, $150,000 for A-76 Task Force expenses (including travel), and $50,000 for contracting A-76 reviews. It is difficult to compare the Coast Guard A-76 program costs with other modes in the Department of Transportation (DOT), or other agencies for that matter, because we all deal with the program differently. For instance, the Coast Guard is the only DOT mode that centrally manages the A-76 program and conducts the reviews of commercial activities. Most Department of Defense (DOD) agencies also have centralized policy staffs but depend on components of their field organizations to do the actual studies. The FAA anticipates spending about $500,000 for contracted reviews in FY 1986.

PERSONNEL REDUCTIONS

SENATOR ANDREWS: What analysis has the Coast Guard performed of the potential shortage of maintenance personnel to support Coast Guard capital equipment not in the Department of Defense inventory? The budget requests 16 additional civilian personnel for new aircraft. In future years, will the Coast Guard have enough engineers and specialists to repair and maintain new, sophisticated vessels and aircraft?

ANSWER: Our request for additional personnel is based on an analysis of existing aeronautical engineering resources in the contracting, inventory management and engineering functional areas compared to Coast Guard and Department of Defense standards and tempered with three years of actual experience supporting the new HU-25A Falcon Jet. In the future, we expect to be able to recruit and train the necessary personnel to repair and maintain our vessels and aircraft.

SENATOR ANDREWS: The budget process proposes 38,259 military positions and 38,220 full time equivalents in FY 1986. The Coast Guard authorization established a full time equivalent floor of 39,150. Is this shortfall the reasons for the requested bill language limiting funds for military compensation? What amount is necessary to fully fund the authorized personnel level? Why hasn't the Department addressed this funding requirement in a reprogramming request, as directed for the Senate report?

ANSWER: Yes, the personnel shortfall is the reason for requesting limited funding. $773,800,000 in the Operating Expenses appropriation will fund compensation for 36,543 military full-time equivalents (FTEs) of our budget total 38,220 FTEs and is consistent with our overall appropriation levels. The remaining FTEs will be funded from our other appropriations or on a reimbursable basis by other agencies.

To reach the floor (39,150 plus 157 Public Health Service officers) would require 1,087 more FTE. An increase of $32,134,961 would be necessary to fund these additional FTE.

USER FEES

SENATOR ANDREWS: The budget proposes legislation to authorize a system of user fees sufficient to collect $236 million in fiscal year 1986. Yet the so-called White House House/Senate leadership budget compromise assumes only $150 million in Coast Guard user fees. What changes will be made to the Department's legislative proposal of April 2 because of this reduction?

ANSWER: If the amount to be collected is less than the amount contained in the Department's legislative proposal, the level of cost recovery would be adjusted to reflect the change. The same services would continue to be eligible for cost recovery, and the fee schedules and collection systems would still be determined through the regulatory process.

SENATOR ANDREWS: Why does the estimated number of search and rescue cases increase in fiscal year 1986 when the proposed legislation would establish charges for non-emergency operations?

ANSWER: Boating activity is expected to increase at a rate of one to two percent per year during the next five years as a result of an improving economy and population growth. Accompanying this increase in activity will be an increase in the level of exposure and risk, and the need for the availability of search and rescue services.

The Coast Guard will maintain a full capability to receive and evaluate calls for assistance, and will continue to maintain a capability to respond to all calls for assistance, both life threatening and non life threatening. Even if commercial service is available, it will still be necessary for the Coast Guard to be able to respond to all calls for assistance and to ensure that comprehensive search and rescue services are available.

SENATOR ANDREWS: The categories of Coast Guard services for which user fees would be assessed include recreational and commercial vessel safety, and port and environmental safety. Is this initiative consistent with the Department's primary safety responsibility?

ANSWER: Yes, it is consistent with the Department's safety responsibilities. Users pay for most of the costs of operating and maintaining the nation's air traffic control system. It is also consistent with the provisions of Office of Management and Budget Circular No. A-25 which has been in effect since 1959.

SENATOR ANDREWS: How does the proposed legislation differ from past Coast Guard user fee proposals?

ANSWER: Like the 1981 and 1982 proposals, the current one uses a combination of direct and indirect fees. The levels of recovery differ, as do some of the specific costs to be recovered. The fiscal year 1983 proposal, which limited methods of collection to direct fees only and reduced the amount proposed for recovery, did not include as many services for cost recovery. The current proposal provides for the deposit of collections into the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating.

DRUG ACTIVITIES

SENATOR ANDREWS: What is the amount to be spent in FY 1985 and requested for FY 1986 for drug enforcement activities?

ANSWER: The amount to be spent for drug enforcement activities in FY 1985 is approximately $305 million; in FY 1986, the requested amount is slightly more than $325 million.

SENATOR ANDREWS: What is the Coast Guard's overall assessment of the effectiveness of the National Narcotics Border Interdiction System (NNBIS)? What proof is there that NNBIS is stemming the flow of illegal drugs into this country?

ANSWER: The National Narcotics Border Interdiction System (NNBIS) has proven to be a useful, positive vehicle in fostering interagency coordination and synergism. Intelligence information gathered by various agencies is used to determine the most effective use of available resources. NNBIS focuses on the macro view of drug interdiction. NNBIS suffered some growing pains, but has experienced many successes, notably the recent execution of Operations Hat Trick and Blue Lightning. These operations required the coordination of many U. S. agencies and the cooperation of several foreign governments. These operations demonstrated the effectiveness of coordinated efforts in stopping the flow of drugs into the country.

SENATOR ANDREWS: What is the proportion of drugs seized to drugs shipped (described as the "only effectiveness measure" by the Commandant last year)? Is the percentage stable at 30 percent, declining or increasing?

ANSWER: The 30 percent figure refers to the total seizures of marijuana by all agencies as estimated by the National Narcotics Border Interdiction System (NNBIS). The Coast Guard's interdiction rate in calendar year (CY) 1983 was about 14 percent, based in part upon the National Narcotics Intelligence Consumers Committee (NNICC) estimates of the amount imported into the U. S. and the amount shipped by sea. These estimates for CY 1984 are not yet available. NNICC did make a prediction of 1984 marijuana shipments; based on that, our interdiction rate for 1984 is estimated to be 15%. However, we believe that our 1984 interdiction rate may actually be significantly higher, because the actual amount of marijuana shipped by sea in 1984 was much less than predicted. This decline in shipments was due to higher than expected eradication in Colombia and maritime route denial during Operation Wagonwheel in November and December, 1984.

SENATOR ANDREWS: When will interdiction efforts be reduced because long term efforts aimed at reducing drug demand through education and source eradication have taken effect?

ANSWER: As long as there is a demand for illegal narcotics and a profit margin sufficient to justify the risk involved in trafficking, interdiction efforts will need to continue. We can't predict when we are going to get to that point, but there were some encouraging signs in 1984. The National Narcotics Intelligence Consumers Committee's Narcotics Intelligence Estimate for 1983 indicates marijuana use among our young people continues to decline. Also, there were significant strides in source country control, particularly in Colombia where there was considerable crop eradication and stepped up law enforcement.

SENATOR ANDREWS: Provide for the record the amount spent by the Coast Guard in FY 1984 - 1986 for NNBIS support. Provide a comparison of NNBIS support by other Federal Agencies.

ANSWER: We do not have the information on NNBIS support provided by other agencies. The following table, however, shows Coast Guard support for NNBIS in FY 1984 - 1986:

FY	TOTAL AMOUNT
1984 (Actual)	$2,831,651
1985 (Est.)	$3,257,000
1986 (Est.)	$3,390,000

SENATOR ANDREWS: Was the entire FY 1984 Supplemental ($1.8 million) obligated for NNBIS support? Provide a breakdown of costs by NNBIS Regional Coordinator centers and purposes for which funds were used.

ANSWER: The entire $1.8 million supplemental was obligated for NNBIS support in FY 1984. Of the total amount provided by the Supplemental, $120,701 was obligated for travel costs, $100,942 for Standard Level User Charges (SLUC), $522,373 for other operating expenses, and $1,055,984 for direct personnel costs. SLUC and direct personnel costs are paid centrally. The following is a breakdown of non-personnel/ SLUC costs by regional center:

	Costs	
Center	Travel	Other Operating*
Northeast Region, New York	$ 12,500	$ 500
Southeast Region, Miami	24,160	115,000
Gulf Region, New Orleans	44,154	261,761
Northern Region, Chicago	10,000	--
Pacific Region, Long Beach	18,000	126,240
NNBIS HQ, Washington, D.C.	11,887	18,872
Total	$120,701	$522,373

*Includes items such as training, security, leases, equipment, maintenance, and utilities

BLUE LIGHTNING OPERATION

SENATOR ANDREWS: Please summarize the results of the joint Coast Guard-Customs interdiction operation in the Bahamas, called "Blue Lightning".

ANSWER: Operation Blue Lightning was a coordinated law enforcement effort between the Government of the Bahamas and the United States conducted from April 3 to 19, 1985. The operation was coordinated by the Southeast Region of the National Narcotics Border Interdiction System and involved 26 Federal, state and local agencies of both governments. The goal of the operation was three-fold: (1) to disrupt the primary maritime smuggling routes through the Bahamas, (2) to destroy cached contraband and facilities on various islands throughout the Bahamas, and (3) to intercept those smugglers approaching the Florida coast who had been "flushed out" by the pressure being applied in the Bahamas. The operation resulted in the seizure of 26 vessels, 18 tons of marijuans, 5500 pounds of cocaine, $1.5 million in assets, and the arrest of 57 people.

SENATOR ANDREWS: Committee sources indicate that the quantity of marijuana moving in the Atlantic supply lines is declining. Does this indicate that marijuana is moving into the country through Mexico? Is that due to deterrent success in the Caribbean, and if so, should more Federal resources be directed to customs activities?

ANSWER: At this point, there are no clear indications that any marijuana normally transported via maritime routes in the Caribbean/Atlantic is being diverted through Mexico enroute the United States. That the volume of marijuana shipped by sea in the Caribbean/Atlantic region appears to have temporarily decreased may be the result of several factors, most notably the present conditions in Colombia. Stepped up law enforcement efforts by both the United States and Colombia during the last two months of 1984 severely disrupted the normal operations of Colombian maritime traffickers. During that time, it appears many maritime traffickers ceased or cut back their operations while diverting some of their product to air shipment in order to avoid the maritime law enforcement pressure. While some Colombian marijuana may have been temporarily diverted from the Caribbean/Atlantic maritime routes, we believe that the other major foreign producers of marijuana destined for the United States are increasing their activity and maritime transportation of marijuana remains highly profitable. Based on this information we would not recommend any shift in current Federal drug interdiction resources.

COLOMBIAN OPERATION

SENATOR ANDREWS: Last year, the Coast Guard participated in a major effort directed at reducing marijuana movement from Colombia. Please summarize the Coast Guard's participation, and the results of that effort. What is the role of Defense personnel in these operations? Do you agree with the five Southern State Governors who called for a more active DOD role in drug interdiction?

ANSWER: Operation Wagonwheel was part of Operation Hat Trick, a larger operation coordinated by the National Narcotics Border Interdiction System (NNBIS) involving other U. S. law enforcement agencies. Conducted during November and December

1984, Wagonwheel was the largest maritime drug enforcement effort ever, and was designed to disrupt and interdict the fall harvest of South American marijuana.

DOD participation in Operation Wagonwheel represented an unprecedented commitment of dedicated resources to support Coast Guard operations. The U.S. Navy Commander-in-Chief, Atlantic Fleet, committed extensive surface and air resources to operations under Coast Guard tactical control. Three major surface vessels, three hydrofoil patrol boats and three P-3 aircraft and squadron support personnel representing over a thousand Navy personnel were ultimately involved. Additionally, personnel from the U.S. Army Southern Command provided other support services.

The operation was a major success. Wagonwheel forces seized 37 vessels and 109 tons of marijuana; 3 other vessels were forced into Mexican waters by Coast Guard cutters, where they and their 32 tons of marijuana were seized by Mexican naval units. More importantly, as the Wagonwheel squadron deployed close to the Colombian coast, it effectively sealed off the sea lanes traditionally used by maritime smugglers and accomplished the main objective of the operation: disruption of the smugglers' normal activity during the prime shipping season. Smugglers were forced to stockpile their crop or seek alternate, less efficient and more costly methods of moving their product. Because of stockpiling, Colombian armed forces and police were able to destroy some 300 tons of marijuana in special land operations planned to capitalize on the anticipated impact of Wagonwheel. An increase in air smuggling and a rise in the street price of marijuana in some parts of the U. S. were other indicators of our success. There were reports from Colombia that maritime interdiction, in-country stockpile destruction, and the U. S.-supported Colombian eradication program eliminated as much as 50% of the fall harvest. Maritime trafficking has remained uncharacteristically low thus far in 1985, showing the operation's long term effects on the smuggling organizations. Finally, this operation demonstrated the success that can be gained from international cooperation on a mutual problem.

Department of Defense assistance has increased significantly the last two years and has been valuable in drug interdiction. Additional options are being studied to determine what can be done to further increase DOD assistance.

PROSECUTION

SENATOR ANDREWS: What is the trend for drug violation prosecutions? Last year you indicated that the conviction rate has dropped off. What were 1983 and 1984 results? How can they be improved?

ANSWER: The trend for drug violation prosecutions in the Seventh Coast Guard District (statistics for other districts are not presently available) are illustrated by the following table:

SEVENTH DISTRICT DRUG PROSECUTIONS[1]

	CALENDAR YEAR[2]			
	1981	1982	1983	1984
INDIVIDUALS ARRESTED	615	780	679	815
STATE PROSECUTIONS	10	9	7	5
FEDERAL PROSECUTION				
- INITIATED	356	642	531	687
- AS % OF THOSE ARRESTED	60%	83%	79%	85%
TRIED/PLED IN FED COURT				
- NUMBER	352	555	432	292
- AS % OF PROSECUTIONS INITIATED	99%	86%	81%	43%
FEDERAL CONVICTIONS				
- NUMBER	295	499	399	248
- AS % OF THOSE TRIED/PLED	84%	90%	92%	85%

Notes:

1 - As of February 16, 1985. Approximately 80% of all Coast Guard drug seizures occur in the Seventh District.

2 - Prosecutions initiated and their outcome are reported in the same calendar year as the arrest, even if the trial/plea/conviction/acquittal took place during a later year.

The conviction rate thus far for prosecutions initiated in calendar year 1984 has dropped off slightly from the two previous years. This may be explained by the increased use of hidden compartments aboard vessels to smuggle illicit drugs. It is more difficult in such cases to prove that the crew members were criminally involved with the hidden drugs.

Some prosecution problems as a result of the wording of certain provisions in Public Law 96-350, codified as 21 USC 955a-d, have come to light. The Coast Guard is presently working on a legislative proposal to deal with those problems. The proposal, if adopted, should improve prosecutions of illicit drug traffickers.

ENFORCEMENT OF LAWS AND TREATIES

SENATOR ANDREWS: Last year's projections for marijuana confiscated were 2.5 million pounds for both 1984 and 1985. What are the actual and estimated figures for those years, as well as FY 1986? Why aren't these figures reflected in the February budget? How were budget estimates made without this data?

ANSWER: Seizure rates, particularly projections, cannot be used as a basis for budget considerations. For example, fiscal year 1984 and 1985 projections were based upon fiscal year 1983 seizures and the anticipated effect of new interdiction resources. The amount shipped was assumed to be a constant, but changes in technology, demand, smuggler tactics, and the effect of future law enforcement operations could not be predicted. Budget estimates are based upon the anticipated need to operate or patrol specific areas effectively - what patrol areas or mission areas are in the most need of resources.

Actual and projected Coast Guard marijuana seizures are:

FISCAL YEAR	CG ONLY	CG ASSIST
1983:	2,295,525 lbs	101,849 lbs
1984:	2,817,291 lbs	118,635 lbs
1985 (to 5/15):	1,173,082 lbs	245,050 lbs
1985 & 86 (EST):	2,500,000 lbs	

"CG ONLY" refers to those seizures made solely by the Coast Guard. "CG ASSIST" are those seizures in which the Coast Guard assisted some other agency - federal, state, or local.

SENATOR ANDREWS: No projections were given for cocaine confiscation in the budget justification. Why is this information so difficult to estimate? What is the Coast Guard's best estimate for this fiscal year and FY 1986?

ANSWER: Cocaine estimates are very difficult to develop. Estimates of source country production, importation and modal mix have traditionally been less reliable than for marijuana. Because it is a high value drug, cocaine can be shipped in small quantities, easily concealed in vessels. Indications are now that cocaine **is increasingly** being shipped by sea and in sizeable quantities.

Actual and predicted cocaine seizures are:

FISCAL YEAR	CG ONLY	CG ASSIST
1983:	55 lbs	1,700 lbs
1984:	1,932 lbs	75 lbs
1985 (to 5/15):	5,130 lbs	24 lbs
FY 85 & 86 (EST):	7,000 lbs	

"CG ONLY" refers to those seizures made solely by the Coast Guard. "CG ASSIST" are those seizures in which the Coast Guard assisted some other agency - federal, state, or local.

SENATOR ANDREWS: How much does it currently cost to interdict 1,000 pounds of marijuana and how does that compare to the past three years? In other words, is drug interdiction becoming more or less cost-effective?

ANSWER: To look at cost per 1000 pounds of marijuana seized as a measure of cost-effectiveness or as a cost-benefit ratio across time is not a valid measure. The amount of marijuana seized is a function of at least 4 factors: the amount shipped, the effectiveness of the smugglers at avoiding interception, the amount of interdiction effort by law enforcement agencies and the effectiveness of law enforcement agencies at interdicting the smugglers. Cost per weight of marijuana seized might be used to assess the most cost effective interdiction method if compared during the same time period under similar conditions (same transportation mode) and only when comparable costs are included. It should not be used in trend analysis because the actions of the smugglers may be completely different in the subsequent time frames. For example, assume the amount of seizures has dropped while enforcement effort has increased. One doesn't know if this was caused by a drop in shipments (our goal), an increase in the effectiveness of smugglers in avoiding interception, a decrease in enforcement effectiveness or any combination of these factors with appropriate magnitudes.

In particular, using seizure rate as a measure of cost effectiveness totally overlooks a major goal of law enforcement - deterrence. Consider what happened during Operation Wagonwheel in December of 1984. We totally shut down maritime smuggling routes out of Colombia. We severely disrupted their operations - perhaps permanently in some respects. Coast Guard-wide that month of December, we seized only 25 tons of marijuana - about one-eighth of what we usually seize in a December. But we were very effective - the drugs didn't move.

The figures below include marijuana seizures while assisting other agencies:

	FISCAL YEAR			
	1981	1982	1983	1984
DRUG ENFORCEMENT EXPENDITURES (MILLIONS $)	$214	$194	$280	$304
MARIJUANA SEIZED (MILLIONS LBS)	3.99	3.78	2.39	2.93
COST PER 1,000 LBS	**$54,000**	**$55,000**	**$116,000**	**$119,000**

As shown above, the cost of operating the Coast Guard drug interdiction program divided by the weight of marijuana seized has roughly doubled from fiscal year 1981 to 1983. However, this must be tempered with other facts:

Use of hidden compartments is increasing - making the narcotics increasingly harder to locate and more time consuming.

Average shipment size has decreased dramatically - we are seizing more vessels but seizing less marijuana per seizure.

Smugglers have become much more sophisticated in their operations - including the use of counterintelligence and surveillance.

Maintenance costs continue to increase due to inflation, whereas seizure amounts are not affected by inflation.

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These efforts are increasing the cost of doing business for everyone, smuggler and law enforcement agencies alike, and it is the deterrent effects of loss of vessel, loss of drugs, and prison terms that has the greatest effect upon the smugglers.

SENATOR ANDREWS: Both aircraft and cutter hours are projected to increase in FY 1986. What specific goals for drug interdiction will be attained with this level of resources?

ANSWER: Because of the complex interactions of the different factors in our drug enforcement strategy, such as seizures and deterrence, it is difficult to project specific results from the expected increase in operational hours. However, based on a projection of fiscal year 1984 seizure data, assuming a linear relationship between cutter operational hours and interdiction results, and ignoring the impact of deterrence, the additional operational hours available from all cutters and aircraft should provide the following annual increased drug interdiction benefits:

8 additional vessels seized

9850 additional pounds of marijuana seized

40 additional arrests

HAITIAN MIGRANT INTERDICTION

SENATOR ANDREWS: The MIAMI HERALD reported last year that in one week the Coast Guard intercepted 671 Haitian refuges, nearly the total amount for 1982 and 1983. What are the 1984 statistics; what explains the increase and what percentage of Haitian refugees are interdicted before landing in the United States?

ANSWER: In calendar year 1984 the Coast Guard intercepted 57 boats with a total of 2,942 illegal Haitian migrants. Of those interdicted, 2,685 were returned to Haiti under the terms of the 1981 Bi-lateral Agreement on Interdiction of Illegal Haitian Migrants and the others were remanded to the Immigration and Naturalization Service.

The large increase in the numbers of intending migrants leaving Haiti has been attributed to several things. First, the emergence of alien smuggling as a high profit scheme with few penalties, if caught, is bringing the smuggling organizer into the forefront. In 1982 and 1983, most migrants were villagers who either bought or built a simple sailboat for the journey to the United States to find work. In 1984, there were increasing numbers of documented smuggling attempts, many times with unfortunate migrants literally crammed into very small concealed compartments on Haitian coastal freighters, and even secreted under loads of cargo. Secondly, economic conditions on Haiti, compared to the U. S., provide an incentive. Third, financial assistance and encouragement from the increasing numbers of relatives and neighbors already in the U. S. continues to increase. These factors, combined with the good weather during the period, are probably the reasons for the sudden surge.

We don't know what percentage of Haitian refugees are interdicted because we obviously have no way of knowing how many enter undetected.

CUTTERS HOURS

SENATOR ANDREWS: The Committee understands that you testified before the House Subcommittee last week that, in fact, the 1986 cutter hour increase for general law enforcement is not likely to be the 32,000 hours shown in the justification. What is the correct figure?

ANSWER: The 1986 estimated General Law Enforcement cutter operating hours should be revised to read 201,000 hours, reflecting an increase of 5,000 operating hours from the fiscal year 1985 level.

AIRCRAFT FLIGHT HOURS

SENATOR ANDREWS: A Comparison of last year's estimated aircraft flight hours for general law enforcement and the performance data on page 25 indicate that FY 1984 and 1985 were considerably overstated. Why were aircraft flight hours less than assumed, and what revised estimate is likely for FY 1986? (Budget assumes 20,400 hours)

ANSWER: The aircraft flight hour estimates last year were based on two assumptions which were not realized. First, we assumed a much higher availability rate for the HU-25A medium range surveillance aircraft than we actually were able to achieve. HU-25A availability degradation was primarily caused by interior engine corrosion, engine fuel nozzle deficiencies and non-availability of some airframe spare parts.

Second, we assumed HH-65A Dolphin short range recovery helicopters would be replacing older HH-52A Seaguard helicopters. Due to certification difficulties, we have not yet begun replacing the older helicopters with HH-65A Dolphin helicopters. The HH-52A helicopter is programmed for 650 flight hours annually, while the HH-65A helicopter will be programmed for 800 flight hours annually. Most of this 150 flight hour increase per helicopter would be provided for law enforcement.

The current FY 1986 estimate of 20,400 hours is the best available at this time based on current aircraft acquisition and operational availability estimates.

GREAT LAKES CONSOLIDATION

SENATOR ANDREWS: The budget assumes $5 million savings from consolidating 13 Great Lakes facilities. What studies have been conducted of alternative staffing for these facilities, such as having only a facility caretaker during the winter, then relying on auxiliary and reserve staffing during the summer? Could $5 million still be saved under that scenario?

ANSWER: Our consolidation plan did look at alternate staffing methods and includes them where feasible. Specifically, our consolidation plan calls for conversion of three stations - Bayfield (WI), St. Clair Flats (MI), and Alexandria Bay (NY) - to seasonal operation, using a reduced number of active duty personnel to be based at adjacent station in the wintertime. In addition, the station at Frankfort (MI) will be converted from full-time to seasonal, Reserve-augmented status. Although Reserve-augmentation is included in this plan we are reaching the limits of our ability to fill the needed billets even though we solicit nationwide. Any further expansion would necessitate either resorting to an involuntary call-up or expanding the overall size of the Reserves. In addition to the $5 million saving, however, we are also achieving a reduction of 150 full-time military positions. Reductions in operations alone would not meet these goals since 72% of the total savings are personnel costs. To meet these reduction goals this consolidation plan was developed. This plan was developed with our total response capability on the Great Lakes taken into account and maximizes our necessary services to the public. It cannot be split or implemented incrementally since each part counts on another for assistance or additional resources.

SENATOR ANDREWS: Provide the 13 station list for the record, as well as the cost/benefit data used in the determination to consolidate each station, and increase response time closure will cause. Compare this information to workload data at comparable SAR facilities.

ANSWER: Enclosure (1) lists the stations being consolidated under the proposed plan, together with the savings in both personnel and operating funds. No cost/benefit study was done. We considered workload and trends, geographic distribution of cases, ability of adjacent stations to absorb additional cases, impact on predicted average response times, availability of alternative resources (such as state and local public safety agencies), operating costs vs. workload, and local commanders' judgment in determining which stations to close or modify. Enclosure (2) lists all stations in the Great Lakes, including the stations being consolidated, with five-year average case load for comparison purposes. The predicted change in average response times for all cases in the geographic area currently assigned to the stations being consolidated is also shown.

STATION CONSOLIDATIONS

Stations	Action	Billets Saved	$ Savings	5 YR CASE AVG
Lake Superior:				
North Superior	Close	5	210K	12
Bayfield	SARDET 1/	10	100K	48
*Duluth	Augment	(6)		78
Marquette	Close	8	328K	35
Superior Sub-Total		**17**	**638K**	
Lake Huron				
Harbor Beach	Close	2	167K	80
Huron Sub-Total		2	**167K**	
Lake St. Clair:				
St. Clair Flats	SARDET 1/	20	158K	542
*Pt. Huron	Augment	(8)		181
St. Clair Shores	Close	19	200K	413
*Belle Isle	Increase B-O 2/	(6)		599
St. Clair Sub-Total		**25**	**358K**	
Lake Erie:				
Marblehead	Reduce B-O 2/	5	130K	1054
Ashtabula	Close	16	361K	96
Erie Sub-Total		**21**	**491K**	
Lake Ontario:				
Alexandria Bay	SARDET 1/	18	240K	113
*Oswego	Augment	(8)		106
Ontario Sub-Total		**10**	**240K**	
Lake Michigan:				
Air Sta Chicago	Close	38	1900K	111
*Air Sta Traverse City	Augment	(8)		118
Sheboygan	Close	14	250K	100
*Two Rivers	Augment	(3)		73
Holland	Close	17	179K	182
*Grand Haven	Increase B-O 2/	(6)		188
Frankfort	Res Augment 3/	9	175K	99
Michigan Sub-Total		**61**	**2504K**	
TOTAL		**136**	**4398K**	
Plus General Support		14	602K	
GRAND TOTAL		**150**	**5000K**	

* - Indicates units being augmented/increased in some manner due to this action.

1/ - **Search and Rescue Detachment (SARDET)** - Approximately 8 personnel assigned to a parent unit who man a ready boat out of another area in the summer season.

2/ - **B-O** - Ready crew and boat able to respond within 30 minutes.

3/ - **Reserve Augment** - Replace a portion of regular complement with reserve billets during the summer season providing an extra ready boat.

******NOTE****** All dollar savings are initial estimates. Where we are creating SARDET's or augmenting other units the dollar savings are the net of the two transactions.

KEY

NOTE A - SUMMER 1 B-0; WINTER 1 B-0 WEEKEND DAYS, 1 B-2 ALL OTHER TIMES

B - B-0 0800-1600 DAILY AND B-2 ALL OTHER TIMES

C - SUMMER 1 B-0 WEEKENDS AND HOLIDAYS, 1 B-2 ALL OTHER TIMES

D - NO B-0, AUXILIARY BOAT AVAILABLE SUMMER WEEKEND DAYS

E - SUMMER 1 B-0; WINTER NONE

F - SUMMER 1 B-0 WEEKEND DAYS, 1 B-2 OTHER SUMMER; WINTER [illegible]

G - AIRSTA 1 B-0 - EITHER FIXED-WING OR HELO

H - AIRSTA 1 B-0 - HELO ONLY

I - NO SIGNIFICANT CHANGE IN RESPONSE TIME

J - NO VALID DATA DUE TO LOW CASE LOAD AND DISTANCES INVOLVED

K - RESPONSE TIMES "BEFORE" INCLUDE ALL THREE NINTH DISTRICT AIR STATIONS AND "AFTER" IS WITHOUT AIR STATION CHICAGO (i.e. ONLY INCLUDES AIR STATIONS TRAVERSE CITY AND DETROIT)

L - DUE TO LOW WINTER CASE LOAD AND NO CHANGE IN SUMMER RESPONSE, THERE IS NO SIGNIFICANT CHANGE IN RESPONSE TIME.

DEFINITIONS: B-0 - READY CREW AND UNIT (BOAT OR HELO) ABLE TO RESPOND WITHIN [illegible] MINUTES

SUMMER - MAY 15 - SEPTEMBER 15 (APPROXIMATELY)

WINTER - SEPTEMBER 16 - MAY 15 (APPROXIMATELY)

RESPONSE TIME - AVERAGE TIME FROM NOTIFICATION UNTIL ALONGSIDE DISTRESSED PARTY.

LAKE SUPERIOR

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
NORTH SUPERIOR	OPEN YEAR'ROUND NOTE B	CLOSED - COVERAGE PROVIDED BY STA DULUTH	5	0	1.1	8.9	12	DOWN
BAYFIELD	OPEN YEAR'ROUND NOTE B	SARDET - OPEN IN SUMMER, WINTER COVERAGE FROM STA DULUTH, NOTE E	10	0	NOTE L	NOTE L	58	DOWN
DULUTH	OPEN YEAR'ROUND NOTE A	NO CHANGE - ADD 6 BILLETS FOR SARDET AND COVER FOR N. SUPERIOR NOTE B	15	21	NOTE I	NOTE I	78	DOWN
PORTAGE	OPEN YEAR'ROUND NOTE B	NO CHANGE	7	7	NOTE I	NOTE I	27	STEADY
MARQUETTE	OPEN YEAR'ROUND NOTE B	CLOSED - COVERAGE PROVIDED BY STA PORTAGE AND LOCAL CG AUXILIARY	8	0	NOTE I	NOTE I	35	STEADY
MUNISING	AUXILIARY OPERATED, NOTE D	NO CHANGE	0	0	NOTE I	NOTE I	5	DOWN
GRAND MARAIS	AUXILIARY OPERATED, NOTE D	NO CHANGE	1	1	NOTE I	NOTE I	5	DOWN
SAULT STE MARIE	OPEN YEAR'ROUND NOTE B	NO CHANGE	5	5	NOTE I	NOTE I	21	STEADY
TOTALS			51	34				

TOTAL SEARCH AND RESCUE CASES ON LAKE SUPERIOR IN FY 1984 - 156

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LAKE HURON [illegible]

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
EAST TAWAS	OPEN YEAR ROUND NOTE A	NO CHANGE	[illegible]	[illegible]	NOTE 1	NOTE 1	[illegible]	[illegible]
SAGINAW RIVER	OPEN YEAR ROUND NOTE A	NO CHANGE	[illegible]	[illegible]	NOTE 1	[illegible]	[illegible]	[illegible]
HARBOR BEACH	RESERVE OPERATION NOTE 1	CLOSED - COVERAGE PROVIDED BY STA'S PORT HURON AND EAST TAWAS	2	0	[illegible]	[illegible]	[illegible]	[illegible]
PORT HURON	OPEN YEAR ROUND NOTE A	NO CHANGE [illegible]	[illegible]	[illegible]	NOTE 1	NOTE 1	[illegible]	[illegible]
[illegible]	OPEN YEAR ROUND NOTE A	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	OPEN YEAR ROUND NOTE A	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	OPEN YEAR ROUND NOTE	NO CHANGE [illegible]	[illegible]	[illegible]	NOTE 1	[illegible]	[illegible]	[illegible]
[illegible] DETROIT	OPEN YEAR ROUND	NO CHANGE	[illegible]	[illegible]	NOTE 1	NOTE 1	[illegible]	[illegible]
TOTALS			120	91				

TOTAL SEARCH AND RESCUE CASES ON LAKES HURON AND ST CLAIR IN FY 1984 - 1759

LAKE ERIE

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
TOLEDO	OPEN YEAR ROUND NOTE C	NO CHANGE	25	25	NOTE 1	NOTE 1	508	DOWN
MARBLEHEAD	OPEN YEAR ROUND NOTE F	REDUCE B-0 SUMMER WEEKEND FROM 3 TO 2	35	30	NOTE 2	NOTE 2	1054	DOWN
ASHTABULA	OPEN YEAR ROUND NOTE A	CLOSED - COVERAGE PROVIDED BY STA'S ERIE AND FAIRPORT	16	0	0.8	1.5	96	DOWN
LORAIN	OPEN YEAR ROUND NOTE A	NO CHANGE	17	17	NOTE 1	NOTE 1	266	UP
CLEVELAND HARBOR	OPEN YEAR ROUND NOTE C	NO CHANGE	17	17	NOTE 1	NOTE 1	580	DOWN
FAIRPORT	OPEN YEAR ROUND NOTE A	NO CHANGE	18	18	NOTE 1	NOTE 1	275	DOWN
ERIE	OPEN YEAR ROUND NOTE A	NO CHANGE	20	20	NOTE 1	NOTE 1	217	DOWN
BUFFALO	OPEN YEAR ROUND NOTE C	NO CHANGE	15	15	NOTE 1	NOTE 1	365	DOWN
TOTALS			163	142				

TOTAL SEARCH AND RESCUE CASES ON LAKE ERIE IN FY 1984 - 2660

LAKE ONTARIO

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
NIAGARA	OPEN YEAR'ROUND NOTE A	NO CHANGE	5	5	NOTE I	NOTE I	71	DOWN
ROCHESTER	OPEN YEAR'ROUND NOTE A	NO CHANGE	17	17	NOTE I	NOTE I	178	UP
SODUS	AUXILIARY OPERATED NOTE D	NO CHANGE	1	1	NOTE I	NOTE I	93	UP
OSWEGO	OPEN YEAR'ROUND NOTE A	NO CHANGE - ADD 8 BILLETS FOR SARDET AND COVER FOR ALEX BAY. NOTE B	17	25	NOTE I	NOTE I	108	DOWN
SACKETS HARBOR	AUXILIARY OPERATED NOTE D	NO CHANGE	1	1	NOTE I	NOTE I	51	UP
ALEXANDRIA BAY	OPEN YEAR ROUND NOTE A	SARDET OPEN IN SUMMER, WINTER COVERAGE FROM STA OSWEGO NOTE E	18	0	NOTE I	NOTE I	113	DOWN
TOTALS			59	49				

TOTAL SEARCH AND RESCUE CASES ON LAKE ONTARIO IN FY 1984 - 641

LAKE MICHIGAN - EASTERN SHORE

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
MICHIGAN CITY	OPEN YEAR ROUND NOTE A	NO CHANGE	18	18	NOTE I	NOTE I	182	DOWN
ST. JOSEPH	OPEN YEAR'ROUND NOTE A	NO CHANGE	18	18	NOTE I	NOTE I	199	DOWN
SOUTH HAVEN	AUXILIARY OPERATED NOTE D.	NO CHANGE	1	1	NOTE I	NOTE I	99	DOWN
HOLLAND	OPEN YEAR ROUND NOTE A	CLOSED - COVERAGE PROVIDED BY STA'S SOUTH HAVEN AND GRAND HAVEN.	17	0	1.0	2.8	187	DOWN
GRAND HAVEN	OPEN YEAR'ROUND NOTE A	NO CHANGE - ADD 6 BILLETS AND INCREASE READINESS TO 2 B-0.	16	22	NOTE I	NOTE I	188	DOWN
MUSKEGON	OPEN YEAR'ROUND NOTE A	NO CHANGE	20	20	NOTE I	NOTE I	165	UP
LUDINGTON	OPEN YEAR ROUND NOTE A	NO CHANGE	14	14	NOTE I	NOTE I	135	UP
MANISTEE	RESERVE OPERATED NOTE E	NO CHANGE	2	2	NOTE I	NOTE I	76	DOWN
FRANKFORT	OPEN YEAR'ROUND NOTE A	REDUCE BILLETS BY 9 AND RESERVE AUGEMENT	15	6	NOTE I	NOTE I	49	DOWN
AIRSTA TRAVERSE CITY	OPEN YEAR'ROUND NOTE C	INCREASE STAFFING BY 8 FROM A/S CHICAGO	124	132	NOTE I	NOTE I	118	UP
CHARLEVOIX	OPEN YEAR'ROUND NOTE A	NO CHANGE	16	16	NOTE I	NOTE I	85	UP
ST. IGNACE	OPEN YEAR'ROUND NOTE A	NO CHANGE	16	16	NOTE I	NOTE I	79	UP
TOTALS			277	265				

TOTAL SEARCH AND RESCUE CASES ON WESTERN SHORE LAKE MICHIGAN IN FY 1984 - 1225

LAKE MICHIGAN - WESTERN SHORE

STATION	STATUS		BILLETS		RESPONSE TIME		SAR CASES	
	CURRENT	PROPOSED	BEFORE	AFTER	BEFORE	AFTER	5 YR AVG	TREND
PLUM ISLAND	RESERVE OPERATED NOTE A	NO CHANGE	2	2	NOTE I	NOTE I	70	DOWN
STURGEON BAY	OPEN YEAR'ROUND NOTE A	NO CHANGE	21	21	NOTE I	NOTE I	125	UP
GREEN BAY	AUXILIARY OPERATED. NOTE D	NO CHANGE	1	1	NOTE I	NOTE I	31	UP
TWO RIVERS	OPEN YEAR'ROUND NOTE A	NO CHANGE - ADD 3 BILLETS TO COVER STA STA SHEBOYGAN AREA.	11	14	NOTE I	NOTE I	73	UP
SHEBOYGAN	OPEN YEAR'ROUND NOTE A	CLOSED - COVERAGE PROVIDED BY STA'S TWO RIVERS AND MILWAUKEE.	14	0	0.5	1.4	100	DOWN
MILWAUKEE	OPEN YEAR'ROUND NOTE A	NO CHANGE	9	9	NOTE I	NOTE I	136	UP
KENOSHA	OPEN YEAR'ROUND NOTE A	NO CHANGE	14	14	NOTE I	NOTE I	169	DOWN
WILMETTE HARBOR	OPEN YEAR'ROUND NOTE A	NO CHANGE	18	18	NOTE I	NOTE I	298	DOWN
AIRSTA CHICAGO	OPEN YEAR'ROUND NOTE H	CLOSED - COVERAGE PROVIDED BY AIRSTA'S TRAVERSE CITY AND DETROIT.	38	0	NOTE K	NOTE K	111	DOWN
CALUMET HARBOR	OPEN YEAR'ROUND NOTE A	NO CHANGE	18	18	NOTE I	NOTE I	192	DOWN
TOTALS			146	97				

TOTAL SEARCH AND RESCUE CASES ON WESTERN SHORE LAKE MICHIGAN IN FY 1984 - 1120

ADMINISTRATIVE OVERHEAD

SENATOR ANDREWS: The $25 million cut in administrative overhead appears to have been taken proportionally across all programs. What types of positions and programs will be affected by this cut?

ANSWER: Our engineering, financial, legal, medical, communications, procurement, and supply programs are being directly affected. Personnel from these programs along with planning staffs will be reduced. However, because these personnel also support operating programs, some of these reductions will be indirectly allocated to those operating programs.

AEROSTAT

SENATOR ANDREWS: When will the Coast Guard procure the three aerostat systems mandated by Congress for FY 85? When will all five aerostat systems be deployed and where?

ANSWER: If sole source procurement is used, a letter contract award for the three Sea Based Aerostats (SBA) would be in June 1985 with deliveries in July, September, and November of 1986. Two leased systems would be in operation from June 1985, with both stationed in Key West, FL and deployed to survey the Yucatan channel. SBAs three and four would be operated out of the Miami, FL area and would provide surveillance of the Windward and Mona Passage areas. The base for the fifth SBA would probably be in the Miami area also.

If a Request for Proposal (RFP) contract process is necessary then contract award would not occur until June of 1986. Deliveries would occur in July, September and November of 1987. Only the two leased systems would be deployed in the interim.

SENATOR ANDREWS: What improvements in drug interdiction have resulted from the increased surveillance capability?

ANSWER: The 1900 plus hours of surveillance time from the first Sea Based Aerostat (SBA) directly resulted in the seizure of three vessels, 26,840 pounds of marijuana and the arrest of 22 persons. Based on target information provided by the SBA several offload operations were disrupted by patrol cutters and more effective use of deployed helicopters was made. During Operation Wagon Wheel, several hundred targets were tracked, intercepts were assisted and force dispositions were more effective because of the SBA's capability. The deterrent effect of Wagon Wheel was significant and the presence of the SBA contributed to the total effort.

SENATOR ANDREWS: We understand that one leased system is non-operational because it crashed. How vulnerable is the system to weather?

ANSWER: The first leased system crashed on February 12, 1985. This was the original Sea Based Aerostat used by Westinghouse Tethered Communications (T-COM Corporation) on the North Slope of Alaska in 1981. During the lease period it had been damaged by lightning twice and since it was designed to an unknown standard, the cause of the crash is still uncertain and could have occurred from mechanical or environmental causes. The specifications for the withstanding criteria are higher than those expected for 99 per cent of the weather to be encountered. The Coast Guard also will require more weather and aerostat monitoring equipment, better lightning arrestor capability, lightning scopes, a weather forecasting/analysis system and are assigning Coast Guard Marine Science Technicians to provide weather forecasts. With a better built aerostat, more careful operating procedures, improved constant weather and aerostat monitoring, and avoidance of major storm areas, there will be minimal risk to the Sea Based Aerostats to be procured.

SENATOR ANDREWS: The budget proposes a $1.6 million increase to operate the systems in FY 86. How does this compare to the costs Customs incurs with its aerostat systems?

ANSWER: Customs only owns one aerostat system, the newly deployed Cariball site on Grand Bahama Island. They utilize the radar target information from the USAF owned and operated aerostats at Cudjoe Key and Patrick AFB, Florida. We have no information on the cost of these operations.

SENATOR ANDREWS: What date for initial request for procurement is assumed for the FY 86 requirement of $955,000?

ANSWER: The $955,000 requirement was based on a planned contract award in May 1985, with delivery of systems in May, July, and September of 1986. These funds are to provide partial year operating funds.

MARINE SAFETY

SENATOR ANDREWS: Obligations for Marine Safety operating expenses have been increased in FY 1984 and 1985 over last year's estimates. Yet, most performance stays relatively constant, and the number of U.S. commercial vessels undergoing construction is half the number estimated last year. Please explain the increased spending given the decreased workload.

ANSWER: The marine safety workload has remained fairly constant over the last few years, with the most significant decline in workload in the area of new construction. However, new construction presently constitutes 13.7% of our inspection workload and only 3.4% of the overall Commercial Vessel Safety(CVS) workload. Hence a decline in operating expenses need not follow a decline in new construction. It is important to note that while construction of new deep-draft vessels is declining, other, larger segments of the marine industry continue to grow. The most notable example is the small passenger vessel fleet, which now comprises almost fifty percent of the inspected fleet and new construction workload. These vessels are inspected entirely by Coast Guard personnel as they are not classed by the American Bureau of Shipping (ABS).

SENATOR ANDREWS: What is the rate of recreational boating fatalities for FY 1984-1986? How will increased marine safety obligations contribute to a decline in this category?

ANSWER: The boating fatality rate per 100,000 boats dropped to 6.8 in 1984 from 8.1 in 1983. The Coast Guard is hopeful that this is the beginning of a new downward trend. Our FY 1986 budget request maintains our program of financial assistance to state boating safety efforts at the FY 1985 level. Through continued support of state boating safety educational and

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enforcement efforts, and with a strong emphasis on reducing alcohol use while boating, we hope to contribute to a further decline in fatalities.

Note that Recreational Boating Safety funds are separate from Commercial Vessel Safety funds. The two clienteles require different approaches to safety and they are served by separate organizational entities within the Coast Guard.

SENATOR ANDREWS: We understand that Coast Guard is working with the National Association of State Boating Law Administrators to include incidence of alcohol in boating accident reports. When will accident report forms include this information? How will Coast Guard collect and summarize the new data, and what programmatic changes will take place? What could be done to focus state boating safety grants to address the alcohol abuse issue? What percentage of these grants is currently spent on boater alcohol abuse education?

ANSWER: The Coast Guard is working with the National Association of State Boating Law Administrators (NASBLA) to obtain better data on alcohol involvement in boating accidents. Changes in the boating accident report form, generally completed by the person(s) involved in an accident, will be addressed in proposed rulemaking to implement the boating and alcohol amendments to Title 46, USC, contained in the Coast Guard Authorization Act of 1984. Thorough investigations of boating accidents are the best source of information, and much progress has been made with NASBLA to assure alcohol is specifically addressed in each investigation through inclusion of pertinent information blocks on investigation report forms and by improving the abilities of the investigating officer to recognize alcohol involvement through special training programs. Many States' reports contain alcohol data elements. The Coast Guard has been collecting information on alcohol involvement to the extent a determination could be made from the boating accident report or investigation. The information is coded and entered into the boating accident computer data base. Reporting has been low but is expected to improve over the next several years as increased attention is focused on the problem. The data can be summarized in numerous ways, e.g., age of operator, size of boat, State, activities, time of day, etc. Programmatic changes could include targeting a particular segment of the boating population by age, activities, etc., with a tailored educational campaign or for stricter enforcement in particular areas.

Currently, one of the assurances within our financial assistance agreement with a State provides that the State must disseminate information on the hazards of operating a vessel while under the influence of alcohol. Many States were addressing this issue before the provisions were included in the law. For example, last year the States were instrumental in focusing on the alcohol theme during National Safe Boating Week. Data are not available to provide the percentage of State education funding directed at alcohol abuse.

SENATOR ANDREWS: Are State boating safety personnel trained by Coast Guard in alcohol abuse programs?

ANSWER: Yes. This year the Coast Guard introduced a 12-hour class on intoxication identification and enforcement in the two-week National Boating Safety Course at the Coast

Guard's Reserve Training Center in Yorktown, VA. Ninety-eight State personnel received this training during the recently completed January, February and March classes.

SENATOR ANDREWS: How many States are sending personnel to Coast Guard safety program sessions?

ANSWER: This year thirty-seven States and three Territories participated. During the last three years, only the States of Texas and Missouri did not participate. These States have requested quotas for next year.

SENATOR ANDREWS: What measures of effectiveness does the Coast Guard have for boating safety training, especially for alcohol abuse?

ANSWER: Students are tested at the end of the course to provide an indication of what they have learned. The Coast Guard is getting ready to survey students who attended the course in 1982 and 1983 to determine how the training is being used within the States. The analysis will be completed before the start of the 1986 course in January. Since alcohol abuse was addressed for the first time this year, it will be a year or two before results on our alcohol training are available. However, comments from the States indicate that the class has exceeded expectations for quality, including course content and materials and instructor professionalism.

AIDS TO NAVIGATION

SENATOR ANDREWS: What is the status of the pilot program to contract out maintenance for aids to navigation? Where in the budget are the operating expense savings shown for this category?

ANSWER: We are presently awaiting the end of the thirty legislative day Congressional notification period required by the Coast Guard Authorization Act of 1984 (PL 98-557). At the end of the notification period in mid-May, the Coast Guard Districts involved with the trial program will begin the advertisement and bid award phases of the contracting process. The first two contracts of the five contract program should be awarded by the end of fiscal year 1985, with the others in early fiscal year 1986. No operating expense savings are shown in the budget because the personnel monies associated with the billets to be eliminated as a result of contracting will be used to fund the contracts.

SENATOR ANDREWS: The justification provides no performance data similar to that found on page 25 of last year's justification. Please provide that information for the record for FY 1984 - 1986. Explain any significant differences between actual aids data and that provided last year.

ANSWER:

PERFORMANCE DATA

	1984 actual	1985 estimate	1986 estimate
- OMEGA coverage (thousands of sq miles)	196,000	196,000	196,000
- Loran-C coverage (thousands of sq miles)	20,400	20,400	20,400
- Federal floating aids....	21,068	21,100	21,200
- Federal fixed aids.......	22,531	22,600	22,700
- Private aids authorized..	42,395	42,500	42,600
- Bridge permits and regulations issued......	151	200	200

The significant difference in the actual figures and the estimated figures is due to the number of buoys reported in the Second Coast Guard District. In the Western Rivers, buoys are expendable and the 1984 figures reflect the actual number of buoys on hand on December 31, 1984. The previous year's estimate was based on 3000 more buoys, due to the procurement cycle. The significant difference in private aids is due to the Third Coast Guard District now reporting additional aids maintained by the states and local governments.

MILITARY REIMBURSEMENT

SENATOR ANDREWS: What efforts have been or could be made to obtain Department of Defense (DOD) reimbursement for Coast Guard Support of aids to navigation which are primarily for the benefit of the Defense Department? Specifically address the feasibility of offsetting MAC transportation costs in areas such as the 14th District where the Coast Guard reimburses DOD $1 million annually for materiel transportation.

ANSWER: There are 160 short range aids to navigation in the Fourteenth Coast Guard District that are primarily for the benefit of the Department of Defense. Those aids are located at Guam, Kwajalein, Yap, Saipan, Tinian and Palau. This is in accordance with 14 U.S.C. 2 that directs that the Coast Guard, as one of its primary duties, "...shall develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation ... on, under, and over the high seas and waters subject to the jurisdiction of the United States." Aids to navigation services provided under this mandate do not appear to be reimbursable.

MILITARY READINESS

SENATOR ANDREWS: Obligations for Military Readiness are requested to increase in FY 1986. Cutter days for naval fleet exercises are down considerably compared to last year's projections for ship weeks. Why are fewer cutter days projected this year despite increased expenditures?

ANSWER: The number of cutter days for fleet exercises was down in 1984 from the projected figures primarily due to operational commitments. Two major law enforcement operations were conducted which, when coupled with recovery time to perform deferred maintenance, caused a decrease in expected fleet exercise involvement. An additional decrease resulted from several cutters being involved in the Grenada operation and subsequent patrols. Fewer cutter days are projected this year because of major renovations in our high endurance and medium endurance cutter classes. As a result of these commitments, our involvement in naval fleet exercises has decreased; however, the decrease is temporary in nature. Our entire defense readiness effort is increasing. This includes individual and unit training, field training and participation in mobilization and command post exercise projects with the other services and on our own.

SENATOR ANDREWS: The budget requests $425,000 to evaluate a defense readiness exercise. Who will perform this work: The Coast Guard, DOD or a contractor? What will be done with the results of the evaluation?

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ANSWER: These funds are not just for evaluation. They are also for exercise planning and execution. With the implementation of the Maritime Defense Zones (MDZ), there is an increased need to test our plans and train our Area, District, and MDZ staffs, and personnel at the strategic ports. Each exercise has an evaluation phase which is used to identify problems with plans and procedures, and possible shortfalls in personnel, equipment, training, or other resources. The Coast Guard conducts it own evaluations. We collect and evaluate exercise critiques, and when appropriate establish remedial action projects for corrective action and follow-up.

WARRANTIES

SENATOR ANDREWS: The FY 1985 Appropriation contained language requiring written warranties for major Coast Guard systems acquisitions. Summarize the steps taken to date to implement this provision. When will regulations be promulgated? Which capital acquisitions will have warranties in FY 1985 and 1986? What future procurements will be covered?

ANSWER: The Coast Guard forwarded recommended warranty language to the Office of the Secretary of Transportation (OST) which under the requirements of the 1985 Appropriations Act (P.L. 98-473) has responsibility for issuing regulations requiring written warranties. Implementation status was forwarded to the Committee by the Secretary on 13 February 1985. Issuance of the recommended regulations is pending OST review.

The planned major acquisitions, defined as acquisitions amounting to $20 million or more, for FY 1985 and FY 1986 are the Fleet Rehabilitation and Modernization (FRAM) of the 378-foot High Endurance Cutters; the Mid-Life Maintenance Availability (MMA) of the 210-foot Medium Endurance Cutters; and acquisition of the C-130 aircraft. Contracts for these acquisitions will include warranty provisions. In addition to these three acquisitions, all future Coast Guard acquisitions meeting the definition of major acquisition will include warranty provisions.

SENATOR ANDREWS: Why has no cost savings data associated with contract warranties been calculated by the Coast Guard?

ANSWER: A study of the costs savings related to warranties was performed by the Federal Aviation Administration. The results of their study showed inclusion of warranty provisions are not cost effective except on a highly selective basis.

ACQUISITION, CONSTRUCTION AND IMPROVEMENTS (AC&I)

SENATOR ANDREWS: Last year, in response to concern about slowness in obligating capital funds, the Coast Guard projected that unobligated balances at the end of FY 1984 and 1985 would only total $400 and $115 million respectively. This year's budget schedules indicate instead that those balances will remain high: $530 million in FY 1984. $370 million in FY 1985 and $180 million at the end of FY 1986. Why cannot the funds be obligated sooner? Will all of the $300 million provided in the FY 1984 Defense Appropriations be obligated by the September 30, 1986 deadline? If not. how much is expected to lapse?

ANSWER: Our FY 1985 budget projection of declining AC&I unobligated balances was based on the best information available to us at the time. However, despite obligating funds at one of the highest levels ever reached in any one year, our overall projections proved to be optimistic with regard to our unobligated balances.

A number of factors have contributed to this situation. One is the increasing complexity of the federal procurement process. Large and technically complicated projects - or ones involving industries with overcapacity like ship repair and construction - have been particularly vulnerable. Adding to this has been the heightened awareness and corresponding increase of reviews - both internal and external - resulting from the concern over waste and abuse in government procurement. While this extra attention and oversight has produced benefits, it has also added substantially to the time required to award a contract - and consequently to obligate AC&I funds.

A second reason for our misestimate centers on the $300 million transferred to us from the FY 1984 Defense appropriations. We expected that a large portion of those funds would be obligated early. However, final agreement on projects to be funded by that appropriation was not reached until mid-FY 1984. This delay in approval resulted in our being unable to complete all of the contract requirements for timely award and funds obligation.

A third factor results from the multi-year nature of our AC&I appropriation. This recognizes the complexity of the engineering and procurement phases of these projects. Staffing levels are commensurate with this extended obligation process. Only limited ability to "surge" or to accelerate projects is intended or available - and that is on a selective rather than a wholesale basis.

While last year's projection of the exact timing of funds obligation has changed, we believe that the factors detailed above explain it. We remain confident that all AC&I funds will be obligated without lapse, including the $300 million provided in the FY 1984 Defense appropriations.

SENATOR ANDREWS: Within the $150 million reduction in FY 1985 obligations compared to the initial budget request. The categories reduced the most include enforcement of laws and treaties and aids to navigation. What implicit policy change underlies the reduced level of spending?

ANSWER: There has been no change in Coast Guard policy. The estimates provided are based on current obligation plans. The Coast Guard has a high percentage of its resources devoted to enforcement of laws and treaties and aids to navigation. When projected total obligations are changed there is a direct adverse proportional impact on all programs, which erroneously appears to be programmic reductions.

SENSOR SYSTEM

SENATOR ANDREWS: Was the prototype AIREYE sensor systems delivered, as expected, last summer? What is the status of the five production systems? Are all systems currently operational on the HU-25A aircraft? What analysis has been conducted on the use of the $12.5 million allowance for sensor systems contained in the FY 1984 DOD Appropriations of $300 million? Why is the Department requesting reprogramming authority of $11.7 million for Aerostat systems (Dole letter April 1, 1985)? Will Aerostat replace on-board radar?

ANSWER: The prototype AIREYE sensor system was accepted by the Coast Guard on March 13, 1985. The option in the contract to procure the five production systems was exercised on April 26, 1985. Under the terms of the contract, the first production system is to be delivered bi-monthly at two month intervals thereafter.

At this time, the Coast Guard is completing an assessment of the operational performance requirements of such a system. These operational performance requirements will be incorporated into a statement of work for a system definition study to be performed by the Naval Air Development Center (NADC). The NADC study will examine off-the-shelf sensors, define the system configuration, examine the integration process of putting the sensor system on the C-130, and identify preliminary program costs.

The Department is requesting reprogramming authority in response to Continuing Appropriations Report 98-634 citing Senate Report 98-561 which called for the Coast Guard to begin immediate procurement of three aerostat systems within existing funds. The Aerostat procurement is a completely separate initiative and will not replace a C-130 sensor system. C-130 sensor funds were identified for reprogramming to the aerostat procurement based solely on the lack of abiltiy to obligate these funds in a timely fashion.

270-FOOT MEDIUM ENDURANCE CUTTERS

SENATOR ANDREWS: With the delivery of the four new 270-foot medium endurance cutters in FY 1985 and 1986, what is the remaining delivery schedule for vessels?

ANSWER: Our estimated schedule for the remaining ships is:

ESTIMATED DELIVERY SCHEDULE

Vessel	Delivery date
CAMPBELL	OCT 86
THETIS	FEB 87
FORWARD	JUN 87
LEGARE	OCT 87
MOHAWK	FEB 88

SENATOR ANDREWS: Why does the budget show both a $379,000 reduction and $1,256,000 increase for cutter operation? Break these costs down by vessel for the record.

ANSWER: The presentation of the budget does not reflect netting of costs. One-time start-up costs associated with establishing new positions with which to operate cutters are automatically subtracted from the following year's budget request. Costs associated with part-year operations during the first year are automatically annualized to a level to support a full-year operation. This represents an increase or decrease to the budget submission. There are both terminations and annualizations in the President's budget request for the Coast Guard Cutter SPENCER, as follows:

Terminations	Amount
1. Initial transfer costs	$ -238,000
2. Initial outfitting costs	- 66,000
3. Initial training costs	- 75,000
Total	$ -379,000

Annualizations	Amount
Personnel compensation to operate CGC SPENCER	$1,256,000

MID-LIFE MAINTENANCE OF 210' CUTTERS

SENATOR ANDREWS: The budget requests $25.8 million for mid-life maintenance of 210' cutters. Backing out this amount from last year's four-year cost projection suggests that the budget requests for future years have increased significantly. Please explain.

ANSWER: The FY86 budget request reflects a change in project execution strategy, an increase in the scope of work developed during the final design phase and revised production cost estimates based on the final design.

Insufficient personnel at the Coast Guard Yard preclude project execution as originally planned. The shift of the eleven B class cutters to a commercial facility has caused a program delay of fifteen months and increased costs associated with administration of the contract and execution of the project. Contract administration will cost approximately $11 million through a reimbursible agreement with Naval Sea Systems Command. Refined manhour projections and estimated commercial labor rates will increase the cost of the eleven B class cutters a total of $27 million.

The changes in the scope of work are primarily in the areas of cutter stability and increased fuel capacity. These represent an estimated $19 million increase in program costs.

The remaining increases are approximately $6 million for the five A Class cutters for the revised production manhour requirements and $1.3 million for the last year of the program not reflected in the FY 85 budget request.

FLEET RENOVATION (FRAM)

SENATOR ANDREWS: Of the $72.3 million requested for 378' cutter fleet renovation, $11.3 million is for cost escalation for the first five cutters. This is in addition to $6.4 million cost escalation provided last year. Please explain and provide information on steps being taken to avoid future cost escalation requirements. To what extent are these increased costs the result of defective specifications for vessel renovations?

ANSWER: The budget adjusments for escalation in last year's request and in the current request reflect growth of the Coast Guard cost estimates due only to inflation. Office of Management and Budget guidelines for cost inflation, along with Bureau of Labor statistic indices, were used as inputs to the Coast Guard cost estimating model. These escalation adjustments are not associated with the quality of the contract specifications.

SENATOR ANDREWS: What is the status of the bidding process? When will contract announcements be made? When will work begin? (East and West Coast) Provide a revised shipyard entry schedule and completion dates for this program.

ANSWER: Contract negotiations have been completed with the eleven shipyards that are still actively competing. The Coast Guard anticipates awarding contracts by mid-June 1985. Work on the first two cutters, one on each coast, is scheduled to begin in October 1985. The shipyard entry and completion schedule is:

CUTTER	COAST	ENTRY	COMPLETION
Hamilton	EAST	Oct 85	Apr 87
Mellon	WEST	Oct 85	Apr 87
Sherman	WEST	May 86	Sep 87
Dallas	EAST	Sep 86	Jan 88
Munro	WEST	Dec 86	Feb 88
Rush	WEST	Jul 87	Jul 88
Chase	EAST	Jul 87	Sep 88
Boutwell	WEST	Dec 87	Dec 88
Gallatin	EAST	Apr 88	Apr 89
Morgenthau	WEST	May 88	May 89
Jarvis	WEST	Oct 88	Oct 89
Midgett	WEST	Mar 89	Mar 90

FORWARD LOOKING INFARED RADAR (FLIR)

SENATOR ANDREWS: The budget requests $6 million to procure five Forward Looking Infrared Radar (FLIR) systems. In four years, all 96 HH-65A helicopters are to be FLIR-equipped. What will be the total cost for the complete procurement? Have the concerns raised by the Inspector General about procurement of pre-production FLIR systems been addressed? Are the Inspector General (IG) estimated $6 million savings assumed in the budget?

ANSWER: Based on recommendations from the Transportation System Acquisition and Review Council (TSARC) in November, 1983, the Coast Guard modified its FLIR acquisition strategy. The original Acquisition Plan (AP) called for procurement of two "pre-production" FLIR systems from different vendors. The two systems would have been evaluated in a fly-off on technical and cost factors. The AP modification called for a single competitive contract for the FLIR systems, thereby eliminating the fly-off evaluation. The basis for the modification was the estimated savings of $6 million which would have been required to construct and integrate the two fly-off contenders. This change addressed the concerns of the Inspector General (IG) about pre-production testing. The resulting estimated savings of $6 million have been assumed in our budget request.

Our FY 1986 budget request assumes the need for additional out-year funds in the amount of $76 million, based on the need for 109 high performance FLIR systems. The requirement for system spares and an evaluation of the continued performance of the 11 existing interim systems will be the determinant of final FLIR program costs.

SENATOR ANDREWS: The IG further estimated savings of $14 million for interchanged and shared components, and $29 million for a procurement mix of FLIR equipment (high performance and off-the-shelf). Are these savings endorsed by the Coast Guard, and reflected in the budget estimates? If not, why not?

ANSWER: The savings estimated by the Inspector General (IG) audit report will not be realized. The Coast Guard intends to procure a FLIR system which reflects current Department of Defense (DOD) developed technology. These FLIR systems are in production and possess the high performance needed to meet demanding Coast Guard mission requirements. Only slight modifications are needed to meet Coast Guard specifications. Since the high-performance FLIR systems are in fact production items, unit costs are a function of lot size and production rate. If the Coast Guard order is reduced, unit costs rise. Non-recurring engineering costs for the FLIR/helicopter interface amortized over fewer installations increase the unit installation costs. This will substantially reduce the savings cited by the IG. The cost of test equipment and training will not change, since there will be no reduction in the number of sites.

The concept of interchangeable modules put forward by the IG report suggests savings through procuring fewer FLIR systems and swapping them between helicopters as required. Interchangeable modules will require further modification of production FLIR systems, resulting in increased non-recurring engineering and production unit costs. Airframe modifications, aircraft wiring, and software changes will be required in all aircraft, regardless of whether a FLIR is initially installed. Therefore, there are no significant installation costs savings under this scenario. Support costs increase as the number of components common to DOD production decreases. The total savings incurred by using interchangeable modules is estimated to be less than $5.4 million in initial procurement costs. The savings decrease further when increased support costs are added. The use of interchangeable modules to reduce the number of installed FLIR systems is not practical for Coast Guard operations. Many Coast Guard Air Stations have only three helicopters assigned. The reduced number of FLIR systems will often leave such stations with two FLIR systems for three helicopters and no spare systems. Delays in launch response times may be anticipated as the FLIR system is transferred from one aircraft to another. FLIR system performance will be degraded as electrical alignment and calibration between modules is lost. The mounting operation for the turret will be critical because of the tight mechanical alignment tolerances required for the computer calculations. Continual handling and transferring of modules will result in additional maintenance man-hours. The highly integrated installation will require a large number of electrical connections to the aircraft, which tend to cause maintenance problems at the quick-disconnect plugs in the corrosive maritime environment. A FLIR system is extremely sensitive to electrical and magnetic noise, which commonly comes from corroded quick-disconnect plugs. A permanent installation will allow environmental sealing of the plugs to help prevent corrosion problems.

The alternative of a mix of high-performance and off-the-shelf FLIR equipment is misleading. Both high- and low-performance FLIR systems are available off-the-shelf; both require some modification to aircraft and/or FLIR hardware for installation into the HH-65A. Evaluation of a low-performance FLIR in the HH-52A and HH-3F helicopters at six sites for the past year has shown it to be incapable of meeting Coast Guard mission requirements. Lack of gyro-stabilization prevents the use of any magnified fields of view for surveillance or identification missions. The manufacturer estimates that adding gyro-stabilization would double the cost of the system. Even in good weather, the poorer thermal sensitivity cuts target detection ranges in half. Targets such as a person in the water are generally not detectable by low-performance FLIR systems in "adverse" weather such as rain, mist, or fog, yet these are common Coast Guard operating conditions. Lack of an interface with the navigation computer prevents coordinated scanning to ensure thorough search coverage of an open water area. Without the target cueing and tracking provided by the high-performance FLIR small and/or faint targets can be easily missed or lost by the operator. The flexibility afforded by the multi-mission capability of Coast Guard helicopters is severely constrained when only some aircraft are fully mission capable, especially at smaller air stations with only three helicopters assigned. Again, the savings of the mix alternative are overstated in the IG report. Installation costs for a low-performance FLIR on the HH-65A are estimated at roughly one-half those of a high-performance FLIR, not the one-fourth factor used in the audit. Unit costs of both FLIR systems will be higher because of the smaller production run. Training and logistics costs will increase substantially due to having two different FLIR systems at each air station.

POLAR ICEBREAKERS

SENATOR ANDREWS: A Senate floor colloquy during consideration of the Continuing Resolution addressed the issue of polar icebreakers. The Senate colloquy made clear that the Coast Guard should use available funds to proceed with overhaul and repair of the WESTWIND. What is the status of that project?

ANSWER: Casualty repairs due to ice damage have been completed. Any major repair work would require preparation of detailed contract specifications. However, no funds have been appropriated for such work because of WESTWIND's impending decommissioning as provided for in the FY 1985 budget. All work necessary to keep the ship from deteriorating further is being accomplished.

SENATOR ANDREWS: Are five polar icebreakers currently in an operational status, as mandated by the Coast Guard authorization? How many will be operational while the NORTHWIND is in repair, as requested in FY 1986?

ANSWER: Technically yes. However, although the Coast Guard has not yet decommissioned WESTWIND, the ship is not safe to send to sea, and is not considered operational. WESTWIND's crew has been reduced to 36 people to reduce costs. While NORTHWIND is being repaired, three polar icebreakers will be operational for the estimated four month shipyard availability period.

SENATOR ANDREWS: What is the Coast Guard's estimate of the minimum ships necessary for polar ice operations, and what percentage is defense-related? What percentage is for research and navigational requirements? Why did the interagency study endorse the adequacy of a four-ship fleet? What was the Coast Guard's position?

ANSWER: The Coast Guard maintains that a five ship fleet of icebreakers is required to meet all peacetime user requirements, provide required maintenance time, and allow for contingencies. Current (FY-1985) user requirements show the following breakdown in usage: Defense related, which includes basic research and logistics support: 40 percent, non-Defense research: 40 percent, navigation: 10 percent, and Coast Guard related missions: 10 percent of icebreaker time. Defense-related projects have steadily grown from 29 percent in 1983.

The Polar Icebreaker Requirements Study concluded that a four ship fleet could meet requirements. However, the Coast Guard, in a minority opinion, concluded this was possible only if there were no major casualties or increased demand for ice-breaking services, and provided that the Coast Guard employment standard and/or manning policy are modified.

SENATOR ANDREWS: The initial FY 1985 budget assumed that the WESTWIND would be placed on inactive status. Is that effort underway? What costs are associated with decommissioning?

ANSWER: No actions have been taken toward decommissioning the WESTWIND. However, pending repairs it is in a de facto inactive status. Decommissioning the ship would cost approximately $240,000 . This would pay for such things as removing and shipping reusable equipment and spare parts, preserving historical artifacts, and moving the ship to a final disposition site. If the ship were to be placed in a reserve fleet, it would cost an extra $1.1 million to prepare the ship for "mothballs."

WESTWIND

SENATOR ANDREWS: Does the Coast Guard concur in the Secretary's estimate of April 15 that WESTWIND repair costs total $6.240 million and annual operating costs total $6.154 million? (If not, provide additional information for the record.) What would be the Wind Class service life expectancy with these repairs?

ANSWER: Yes, these estimates were prepared by the Coast Guard. There would also be a maximum of $3.2 million in personnel costs during a 25 month repair period.

The Coast Guard estimates that the repairs would extend the ship's life to the 1991 - 1992 timeframe.

SENATOR ANDREWS: Are these estimates net of the cost to place the vessel in an inactive status? Why are repairs for the NORTHWIND only $5.5 million?

ANSWER: No, these estimates are "zero based". The NORTHWIND costs are lower because the ship is, generally, in better shape, and some of the repair items have already been accomplished on NORTHWIND.

SENATOR ANDREWS: Once placed on inactive status, what would be the cost to activate the WESTWIND in the event one of the four icebreakers were out of commission? What is the historic incidence of damage to the polar icebreakers?

ANSWER: While refined estimates are not yet available, rough estimates place the cost in excess of $500 thousand. This assumes that safety related repairs are made before lay-up, and an optimum state of preservation while in lay-up. This does not include personnel costs for re-crewing. It would take approximately 20 weeks to complete the re-activation plus two to three months to re-train a crew.

In one out of every five deployments icebreakers have sustained casualties which have adversely affected a mission. The effects of these casualties ranged from a few days delay to accomplish repairs to postponement or cancellation of the remaining tasks.

SENATOR ANDREWS: If repairs were made to the WESTWIND, when would she be operational; What portion of operating costs would be necessary in FY 1986; where would she be deployed?

ANSWER: We estimate WESTWIND could be operational by early 1987 if safety repairs are accomplished as the first of two phases. Another year would be required if all safety and supportability repairs are done concurrently in a single yard availability. Only about 30 percent of the ship's operating costs (including personnel) would be required in FY 1986. When deployed, the ship would go to either the Eastern Arctic or Antarctica.

NEW POLAR CLASS ICEBREAKERS

SENATOR ANDREWS: Would you provide us with a status report of your efforts on the new Polar Icebreakers (380-450 foot vessels for FY 1989 award) What money is in FY 1986 for this program.

ANSWER: The Coast Guard has prepared an Acquisition Paper (AP) for the Office of the Secretary of Transportation (OST) approval to procure two new Polar Icebreakers. The AP was submitted to OST March 7, 1985. A Mission Needs Statement and a Sponsor's Requirements Document were prepared based on the findings of the inter-agency Polar Icebreaker Requirements Study (PIRS, July 1984). As recommended by PIRS, an analysis was made of the ability of existing foreign or domestic designs to meet user requirements. So far none have been identified that fully satisfy identified and projected needs.

The first of three design phases planned to be conducted by the Coast Guard has started. The Conceptual Design is scheduled to be completed in September 1985. Contract award is planned for February 1989. The schedule calls for delivery of the first ship four years after contract award with the second ship followed by one year.

Our FY 1986 AC&I appropriation includes about $900,000 in survey and design funds for this project. These funds will be used for a competitive model testing contract during the preliminary design phase.

SENATOR ANDREWS: In your view, would participation of U.S. shipyards in the design process lead to reducing costs?

ANSWER: Participation of U.S. shipyards in the design process would not lead to reducing costs for the first three of four design phases, the concep~~tual,~~ preliminary, and contract design. These three phases represent about 20% of the total design effort in time.

The remaining 80% of the design effort, the detail design, will be part of the shipbuilding contract and will be accomplished by the shipyard that wins the contract. Even though only 20% of the effort in man-hours is used in the first three design phases, 100% of the planning and management decisions are made that determine what kind of ship will be delivered. Resolution of conflicting engineering and operational considerations is extremely important in the early design efforts and is best accomplished by the Coast Guard.

U.S. shipyard participation would likely increase cost of design by $9-11 million in the first three design phases. Additionally, because the Coast Guard is not staffed for monitoring and review of contractor performed design work, no Coast Guard resources would be saved. Existing in-house design resources and additional resources would be needed to monitor and execute the contract. The schedule would slip further due to the time needed to award a design contract.

The Coast Guard is the primary repository of icebreaker design knowledge in the U.S. since no polar icebreakers have been designed and built by U.S. industry since the mid-1950's. The Polar Class, built in the 1970's, were designed and built in the manner planned for the current icebreaker replacement. Knowledge transfer to industry would be time-consuming and incomplete. It is unlikely that industry participation in the first three phases of design will provide a better ship, and it will take longer and cost more.

SENATOR ANDREWS: How could the U.S. shipyards participate? Design competition?

ANSWER: U.S. shipyards can compete for the shipbuilding contract which includes the detail design phase. About 80% of the total design effort will be completed by the contractor. In addition, U.S. shipyards that are properly equipped can compete for model testing contracts to be awarded in early FY 1986, and the electronics design and antenna studies to be awarded in FY 1986.

SENATOR ANDREWS: Is your ship design funding request adequate to support a U.S. shipyard design competition?

ANSWER: The present ship design funding requested is not adequate to support design competition. We have requested only $900,000 which will be used for a competitive model testing contract that is part of the preliminary design phase.

We estimate that it would cost $12-15 million to contract out the preliminary and contract design phases. This is $9-11 million more than the design cost as currently planned using existing resources. No billets would be saved and probably more will be needed. Existing design resources would be required to monitor and administer the contract and additional contract administration and procurement resources would probably be needed. Contracting out more of the design than now planned will not save time and will likely not result in a better or less costly new icebreaker.

SENATOR ANDREWS: Are we behind the Soviets in icebreaking technology and do you view our icebreaking fleet as adequate for military missions?

ANSWER: We are not behind in icebreaking technology. Where we lag the Soviets is in the number of icebreakers and in fleet modernization. DoD informed us in 1984 that the present fleet of polar icebreakers is adequate for wartime requirements.

HELICOPTERS

SENATOR ANDREWS: Why was the Medium Range Recovery Helicopter Program slipped to 1990? Will current medium range helicopters be adequate, or is the Coast Guard relying on Short Range Aircraft capability?

ANSWER: The Coast Guard completed an Economic Life Cycle Analysis in 1982 in preparation of a Mission Need Statement for the Secretary of Transportation. The document was signed in 1982 initiating the major system acquisition (A-109) process. During the 1982-83 time frame there were some DOD initiatives that suggested that operational extension of the HH-3F Medium Range Recovery (MRR) helicopter might be possible. The Navy started the Service Life Extension Program (SLEP) and the Air Force made a large major component procurement. The Coast Guard felt it was in our best interest to investigate these new programs and to substantiate or repudiate the previous economic study. This new study was completed in April 1985 and supported the original conclusion that aircraft replacement is required.

The Coast Guard has resumed the A-109 process to replace the HH-3F helicopter with the emphasis being placed on a DOD supportable aircraft. Delivery of such an aircraft is possible by the early 1990's. It is economically feasible to continue to support the current medium range helicopter until approximately 1990.

ALEUTIAN STATION

SENATOR ANDREWS: The FY 1985 bill provided $13 million for survey and design work for an air station at Cold Bay, Alaska. What is the status of this work? When will a land acquisition cost decision be necessary? What is the current cost estimate for the facility? Does that estimate include maximum use of existing facilities?

ANSWER: We intend to award a contract for a preliminary architectural and engineering design effort, which will include more refined cost estimates for the entire project, by September 1, 1985. Land acquisition, if necessary, will be funded using survey and design funds. The cost of this aspect of the project will be well established by the preliminary design effort which should be completed by May 1, 1986. Until it is completed our best estimate of the facility cost is approximately $100 million, excluding aircraft. Recurring annual costs will be approximately $10 million. Use of facilities already at Cold Bay is considered in these estimates. However, Cold Bay is a very small settlement (population 228) and few facilities, aside from the airfield, are available or properly sized to permit expansion for our use.

HU-25A SPARE PARTS

SENATOR ANDREWS: What is the fleet age of the HU-25A 41 medium range aircraft? How many annual flight hours are being attained by this aircraft now?

ANSWER: The first HU-25A was delivered to the Coast Guard in February 1982, and the last was delivered in December 1983. The average age of the HU-25A fleet is 28 months.

Thirty-four of the 41 HU-25A aircraft are operational aircraft with the remainder being support aircraft. Operational

HU-25A aircraft flew 18,766 hours in fiscal year 1984. These aircraft flew 5,151 hours in the first quarter of fiscal year 1985.

SENATOR ANDREWS: What dollar impact will the warranty expiration have on future spare part provisioning? Is this reflected in the future cost estimate of $9.7 million?

ANSWER: Future spare part provisioning ($9.7 million) is required to complete depot level sparing. Our provisioning plans account for warranty expiration.

SENATOR ANDREWS: The budget requests $12 million in spare parts to restore spare airframe and engine part funds which are being diverted for whole engine procurement. How many engines are being procured and at what cost? How much was made available, and in which fiscal years for HU-25A spares.

ANSWER: Fifteen spare ATF3 engines are being procured at a cost of $19.4 million. During Fiscal Years 1978 through 1983, $56.6 million was provided to procure site spares. These spares are required at our ten HU-25A sites to maintain operational availability of assigned aircraft. $18.5 million was provided in Fiscal Years 83 and 84 or depot level spares. These pipeline spares are required to accommodate parts repair turn-around time and contracting lead times.

SENATORS ANDREWS: How is it possible for increased operational availability of this aircraft to account for an additional 6,800 flight hours annually, when page 25 states the entire FY 1986 enforcement of laws and treaties hour increase will be 1,400 hours?

ANSWER: This is attributable to several factors. First, the projected 6,800 hour increased operational availability of the HU-25A is the total amount possible, provided the complete budget item is funded over two budget years. The FY 86 budget only requests a portion of the total required funding level, with the remainder in the following budget year. Therefore, only a portion of the 6,800 hours can be expected in FY 1986.

In addition, the increased operational availability of the aircraft will benefit other operating programs besides the enforcement of laws and treaties program, in particular search and rescue.

Finally, even if funding is provided at the beginning of the fiscal year, the parts will not be available for several months due to the time required to administer the contract, the time required for the contractor to manufacture and deliver the parts, the time required to distribute the parts to the air stations, and finally the time required to install the new parts in the aircraft. As a result we may only see a few months of increased availability in FY 1986. With these delays it is likely the entire 6,800 hour increase may not be fully realized for three years.

The 1,400 hour increase in the FY 1986 enforcement of laws and treaties flight hours is the best projection available at this time.

SENATOR ANDREWS: The HU-25A is projected for over 27 thousand hours in both FY 1985 and 1986. What is the actual amount for FY 1984 and hours to date for FY 1985.

ANSWER: Thirty-four operational HU-25A aircraft flew 18,766 hours in fiscal year 1984. These aircraft flew 5,151 hours in the first quarter of fiscal year 1985. Revised projections indicate that HU-25A's will fly approximately 23,400 hours in fiscal year 1985.

SHORT RANGE HELICOPTERS

SENATOR ANDREWS: Last year's Short Range Helicopters request estimated final funding of $13.8 Million. The FY 1986 request is for $31.6 Million, almost $18 Million of which is for contract escalation. Why has the final funding increment estimate increased?

ANSWER: Our $31.6 Million FY 1986 Short Range Recovery (SRR) helicopter budget request includes contract escalation requirements for both FY 1985 and FY 1986 because funding was not provided in FY 1985 for the SRR program. Contract escalation costs are non-discretionary and had to be paid by deferring other program requirements, namely spare parts.

SENATOR ANDREWS: Will FY 1986 funding cover all 96 approved helicopters? If not, what will be future costs for this program?

ANSWER: The FY 1986 funding request covers all currently known Acquisition, Construction and Improvement (AC&I) requirements for 96 helicopters. However, the initial provisioning sparing dollars appropriated thus far have been $75.7 Million, approximately 27% of the aircraft procurement value. Since standard provisioning models normally spare at approximately 30%, some additional initial provisioning may be required as usage data becomes available. This funding, if required, should not exceed $7.5 Million.

SENATOR ANDREWS: Almost $7.4 Million is requested for spares. This compares to only $850,000 needed in FY 1985. Why is it necessary to purchase so many spares?

ANSWER: FY 1986 funding requirements include FY 1985 funds denied, plus FY 1986 initial provisioning planned purchases. The FY 1986 request for $7.4M is included in a $75.7M total initial provisioning package. This provisioning package is well within standard DOD provisioning levels necessary for proper system support. The funding has been requested incrementally since FY 1980 to account for long lead time items as well as to balance available budget authority against projected usage rates.

SENATOR ANDREWS: Where will the $377,000 "Aircraft Program Office Support" be spent?

ANSWER: Aircraft Program Office support will be spent to operate the Coast Guard Aircraft Program Office at the Contractors facility in Grand Prairie, Texas. The Program Office is responsible for the proper administration of the Short Range Recovery (SRR) contract and insures that the helicopter is contractually compliant in all respects.

SENATOR ANDREWS: What are "Contractor Claim Contingencies", requested at $600,000?

ANSWER: "Contractor Claim Contingencies" represent the expected cost of a potential contractor claim for data supplied "beyond the scope" of the contract. This data was required by the Coast Guard to be used as Government Furnished Data (GFD) in the on-going and separate procurement of an HH-65A Flight Simulator.

SENATOR ANDREWS: Why will the maintenance center be in Mobile, Alabama, instead of at the Air Station in Elizabeth City? Wouldn't the latter be more cost-effective?

ANSWER: As for all of our aircraft, the maintenance and technical support center for the HH-65A will be located at the Aircraft Repair and Supply Center (ARSC), Elizabeth City, N.C. Mobile, Alabama, is the home of the Coast Guard Aviation Training Center (ATC) where our operational pilots will be trained. The three manufacturer's technical representatives, one each for the airframe, engines, and avionics, have been temporarily assigned to ATC Mobile to provide technical assistance in support of initial pilot training. The technical representatives will be reassigned to ARSC, Elizabeth City in November 1985, to provide assistance in fleetwide technical support.

FORWARD LOOKING AIRBORNE RADAR (FLAR)

SENATOR ANDREWS: Why are engineering development costs of $664,000 requested for a "state of the art" search radar?

ANSWER: Engineering development is necessary for designing the installation for our C-130's. The APS-134 and APS-137 radars have been installed in S-3, P-3, and BR-1150 aircraft but never in a C-130. New equipment racks, waveguide runs, and wiring must be designed; a radar interface unit must be developed to connect aircraft systems to the radar; and the nose cone must be modified for the search radar antenna.

SENATOR ANDREWS: How many radars have been purchased with the $21.2 million provided to date for the Coast Guard's share of the 36 FLAR systems? $17 million is requested in FY 1986. What has been total Navy funding to date? Will the Navy provide only $1.7 million radar procurement for lack of the 15 radars, or will they share in related costs.

ANSWER: A contract for 9 APS-134 radars is nearing award. Six of these radars are being purchased from the $21.2 million Coast Guard funds. The Navy has provided $4.1 million in FY 1985 and is scheduled to provide $10.1 million in FY 1986 and $7.4 million in FY 1987. The Basic Agreement between the Navy and the Coast Guard for Interservice Logistics Support requires that the Navy provide to the Coast Guard Navy-owned defense readiness equipment and associated support materials. The Coast Guard is funding the installation costs. The Navy has agreed to buy Coast Guard radars at a rate of only 3 per year. At this rate the project will not be complete until 1996. The Coast Guard has requested $17 million for FY 1986 to accelerate the procurement. In addition, the Coast Guard has asked the Navy to move $17.87 million from future years into FY 1987 so that procurement of the radars can be finished in FY 1987.

KODIAK

SENATOR ANDREWS: How many Coast Guard Support Centers currently provide dental and infirmary care? What are current arrangements for Coast Guard personnel health care at Kodiak?

ANSWER: The Coast Guard facilities listed below provide both medical and dental care. In addition, those with an asterisk can provide emergency overnight in-patient capability.

Support Center Boston*
Support Center New York
Support Center Portsmouth*
Support Center Elizabeth City*
Support Center Alameda
Support Center Seattle
Support Center Kodiak*

Depending upon the specific medical problem, Coast Guard personnel assigned to Kodiak receive health care treatment either at our own facility, at Kodiak Island Hospital, at Elmendorf Air force Base Hospital, or at Madigan Army Medical Center, Fort Lewis, Washington.

SENATOR ANDREWS: The justification states that the health care facility has been designed in coordination with the local community. How many dental and outpatient facilities are there in the community? How close is the nearest hospital?

ANSWER: Curently, within the Kodiak community, two dentists, six family practice physicians and one psychiatrist provide outpatient care. Kodiak Island Hospital is eight miles from the Coast Guard facilities.

SENATOR ANDREWS: Last year's outyear projections for Kodiak totalled $69.7 million. With the deduction of costs for the health care facility, outyear costs appear to have risen over $5 million. Please explain.

ANSWER: Outyear projections are based on our latest capital investment estimates for the four years following the budget year in question. Last year's estimates cover the period FY 1986-89; this year's estimates cover the period 1987-90. Therefore cost estimates vary from year to year based upon addition of projects in the fourth outyear. Projections are also adjusted by inflation and revised construction cost estimates as the planning for individual projects mature. The variation between the FY 1986-89 and FY 1987-90 estimates reflects a combination of the above factors.

INSPECTOR GENERAL FINDINGS

SENATOR ANDREWS: The Inspector General (IG) report covering the second half of last year stated that the Coast Guard acquired $7,000,000 of field computer equipment which exceeded needs. The IG states that requirements studies were incomplete, and that half of the equipment stood idle. How do you respond? What has happened to this equipment? Has it been reallocated to those areas which need it? Who in the Coast Guard made the decision to procure excess equipment? Was the Office of the Secretary consulted on the acquisition? Is there an evaluation system in place to avoid any future occurrance of this type?

ANSWER: The Coast Guard agrees with the facts presented in the

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IG report "Audit of Independent Microcomputer Systems." We have implemented the recommendations through several initiatives, basically requiring completion of cost-benefit studies for microcomputer installations and issuing criteria for ADP system implementation.

However, the findings of the report are incomplete because the context of the audit did not match our use of the equipment since it evaluated independent hardware systems rather than integrated systems.

Standard terminals are just one part of the overall Coast Guard information architecture. They are a user workstation with input and display capability for reference, analysis, and communications operations, and they support end user applications development.

Availability of access to microcomputers is universally recognized as a key ingredient in developing user acceptance.

Risk of failure associated with undersizing microcomputer parts of systems is more critical than extra costs associated with oversizing.

Opportunity for local use of equipment created by early acquisition of microcomputer parts of integrated systems is more critical to eventual system success than closely timed installations schedules.

Because of terminal standardization, we can redistribute microcomputers from places where opportunities did not fully materialize to places with greater need.

Failure of a given unit to take full advantage of available microcomputers is not a critical loss - implementation of the integrated systems (for which most of the equipment was procured) will generate required "payback."

Transition to full Information Resources Management strategy and architecture will place all information (and technology) resource utilization and sharing into perspective, but requires early user involvement and familiarity which can only be gained effectively through access to local equipment.

The Coast Guard did receive a Delegation of Procurement Authority from GSA via the Office of the Secretary to purchase these terminals. In addition, these terminals have been in our Automatic Data Processing (ADP) plans since 1980. These plans were reviewed and approved by the Office of the Secretary.

No one has adequately modeled the cost/benefit aspects of user involvement and acceptance, but the realization of a need for early prototyping in system development suggests that it may be a dominant consideration.

SENATOR ANDREWS: The same report stated that an additional $9.2 million will be needed for the Marine Safety Information System (MSIS), because of poorly-defined user requirements. What technical oversight is being conducted? Will the additional funds be requested of the Congress of MSIS corrections?

ANSWER: The life cycle cost for MSIS has recently been reprojected. This effort has shown that Battelle, in their original study, had not accounted for appplication software development costs of the system. Further, Battelle did not project any inflation factors in their figures. The DOT IG audit correctly included these additional costs and revealed Battelle's estimating inaccuracies. Based on the same criteria, the life cycle cost (1982 to 1991) estimates are:

Battelle	$23.9 million
OST IG	$33.19 million
1985 CG estimate	$32.45 million

(Coast Guard figures also reflect the costs of microcomputers at local Marine Safety Offices. Since these computers are used for multiple purposes as well as MSIS access (e.g., word processing), the totals tend to overstate actual MSIS expenses).

Technical oversight, which was lacking at the time of the OST IG audit, has been instituted by reorganizing the MSIS project and placing it in the Data Systems Division at Coast Guard Headquarters. Additional technical staff have been assigned, and significant progress is being made. No additional funds are expected to be asked of Congress for MSIS corrections.

SENATOR ANDREWS: What is the current status of the MSIS system? When will it become totally operational? What will be its total cost?

ANSWER: Currently, the Marine Safety Information System is about 45% complete. The scope of the system has been functionally limited by the project officer at the top five modules, as shown below. Projected completion of the five module system is December 1986. Total life cycle cost of the first generation system, including inflation, software development, and including the complete 1978-1991 time frame, will be $32.45 million.

MODULES	STATUS	DATE
(1) PORT SAFETY (PS)	100%	
PORT SAFETY	DEPLOYED.	MAY 84
(2) VESSEL INSPECTION (VI)	60%	
VESSEL INSPECTION (PHASE I)	DEPLOYED.	OCT 84
VESSEL INSPECTION (PHASE II)	IN DEVELOPMENT	MAR 86
(3) MARINE CASUALTY (MC)	40%	
MARINE CASUALTY (FRAGMENT)	DEPLOYED.	DEC 84
MARINE CASUALTY (MODULE)	DEVELOPMENT HOLD FUNDING PENDS	50 WEEKS FROM CONTR AWARD
(4) MARINE POLLUTION (MP)	60%	
MARINE POLLUTION (FRAGMENT)	DEVELOPED	ON HOLD PENDING PERFORMANCE IMPROVEMENT
MARINE POLLUTION (MODULE)	DEVELOPMENT HOLD FUNDING PENDS	50 WKS FROM CONTR AWARD
(5) VESSEL DOCUMENTATION (VD)	30%	
VESSEL DOCUMENTATION	DEVELOPMENT HOLD FUNDING PENDS	25 WKS FROM CONTR AWARD
MARINE VIOLATIONS	PARTIALLY ABSORBED BY PS ,VI, MC, and MP	

--------------------LIMITATION LEVEL--------------------------

VESSEL CONSTRUCTION	DEFERRED
PLAN REVIEW	DEFERRED
OFFSHORE POLLUTION FUND MANAGEMENT SYSTEM	DEFERRED

SENATOR ANDREWS: The system was orginally planned to have nine components or modules. Three have become operational. The Coast Guard has authorized the implementation of another two and based on the results of the first five will decide whether or not to implement the remaining four. Describe these four modules. What factors will impact on the decision about the remaining four modules? How much will be saved if they are not included in the system? How will their elimination impact on the users? Will the data have to be obtained elsewhere?

ANSWER: Originally, nine modules were anticipated for MSIS. Those planned for the present generation of MSIS have been previously addressed. The functionality of a sixth module (Marine Violations) is being absorbed by the functions of the five modules of the limited system. The last three (of the original nine) have been assigned the lowest priority based on least payback to the programs. Some functions of the deleted modules can be accomplished within other systems and interfaced to MSIS. Reduction in the system scope (the limitation noted above) has been in response to the Department of Transportation(Inspector General), General Services Administration, and internal oversight of development. Any new functions will be evaluated for the planned replacement (next generation) of the present generation of MSIS (1991-92). Those modules (functions) include Plan Review, Vessel Construction, and Offshore Pollution Management.

The decision to develop or not develop those functions will rest with the program directors.

Estimated savings for each of these three full modules is $500,000. Partial implementation of the Marine Violations (MV) module will also save about $150,000. This assumes that they could be supported by the current hardware (indications are that they could not be successfully implemented without degrading system performance). There are no intentions of going beyond the five module level during the life of this version of MSIS. The five module limitation was made in concert with the program managers. The decision to limit development was made after concluding that the increased complexity resulting from additional module development would likely be beyond the capabilities of the existing hardware.

Total approximate savings to the present system are $1,650,000 related to these deletions. In addition, a significant hardware expense would also be required to support the last three modules.

Elimination of these modules (which essentially allow access to the data already stored in MSIS, and will collect some additional information) will require the potential users to store the additional data elsewhere, as well as extract portions of data already stored in MSIS.

RESCUE SWIMMER PROGRAM

SENATOR ANDREWS: The Coast Guard authorization established a mandatory Rescue Swimmer Program. The FY 1986 budget assumes one-quarter costs of $400,000. What will be the annual cost of this program once implemented? What are the goals of the program, how many personnel will be involved, when will it be reviewed to determine the need for continued funding?

ANSWER: The annual cost of this program will stabilize at approximately $3.1 million per year. Most of this amount ($2.7 million) is the cost of the additional 125 personnel required to support the program.

The goals of the program are: (1) provide a rescue swimmer in an alert status 24 hours a day at each location where the Coast Guard maintains a ready helicopter; (2) ensure swimmers are highly qualified and professionally trained so that they are able to recover persons from the water far at sea with a minimum of risk to themselves, the survivor, or the remainder of the aircraft crew; (3) establish rescue swimmer skills as part of a professional rescue swimmer career path to ensure professionalism is maintained and personnel turnover minimized; and, (4) provide a professional rescue swimmer capability with a minimum of additional personnel and funding.

Approximately 275 personnel will be required for the program. An additional 125 personnel above the 150 currently on board will be required for full implementation on a phased basis because of training requirements. 112 of these personnel will be requested through the budget and 13 personnel will be made available by reprogramming. This economy is possible because we have structured the program to take advantage of existing personnel and economies of scale at many locations.

We are adding rescue swimmer untilization as part of our Search and Rescue data collection system. Each year we will review utilization and costs as well as benefits of the Rescue Swimmer Program.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION (RDT&E)

SENATOR ANDREWS: At the end of FY 1983, the Coast Guard Research and Development (R&D) Program had $1,293,000 in unobligated balances. This amount was also estimated to be the unobligated balance at the end of FY 1984, yet this year's budget justification shows an actual level of $4,389,000. Why did the unobligated balance increase by over $3,000,000? Does the Coast Guard expect to obligate the $26.2 million as planned for FY 1985?

ANSWER: Our unobligated FY 1984 balance of $4.4 million consisted of the following:

$2,400,000 -	Funds tied-up in contracting process (committed, but not formally obligated)
$1,250,000 -	FY84 unobligated funds (as estimated in budget)
$ 400,000 -	R&D funds carried-over at field units
$ 350,000 -	R&D funds remaining from prior years

Although we intend to reduce our end of FY 1985 balance in the last three categories, we expect over $3 million to remain in the WPB Capability Replacement project for FY 1986 contract award. This project required a multi-year approval and procurement process.

SENATOR ANDREWS: The budget requests an increase of over $5 million, from $2,694,000 to $7,813,000, for enforcement of laws and treaties. Why has this program area been chosen for a large increase? What specific programmatic goal will be achieved through increased research?

ANSWER: The large apparent increase in research for Enforcement of Laws and Treaties (ELT) is misleading. The summary table in the FY 1985 budget request showed WPB capability replacement acquisition ($3 million) as a Search and Rescue (SAR) project, whereas the FY 1986 summary table more accurately shows WPB as multimission, with large benefit to ELT. In addition, other multimission projects and administration were reallocated among activities in the FY 1986 table to more accurately reflect the benefitting program areas.

SENATOR ANDREWS: Marine Safety is proposed for the largest decrease in R&D funding ($6,235,000 in FY 1985 to $2,220,000 in FY 1986). Given the Department's emphasis on safety, why was this research area selected for the largest decrease? What projects will be eliminated?

ANSWER: Marine Safety research funding actually increased $100,000 from FY 1985 to FY 1986, although the Collisions, Rammings and Groundings project was eliminated. The summary table in the FY 1985 budget request incorrectly allocated multi-mission projects and administration funding which resulted in Marine Safety being overstated. The FY 1986 summary table more accurately reflects the Marine Safety share of our R&D effort.

SENATOR ANDREWS: The RDT&E Administration request includes $3,323,000 for enforcement of laws and treaties. The request for FY 1984 was $933,000. Despite this nearly fourfold increase, no explanation is provided as to what these funds, and the personnel they fund, will do to improve the enforcement of laws and treaties. Would you please provide this information?

ANSWER: The personnel and administration costs applicable to the Enforcement of Laws and Treaties (ELT) area are virtually the same in FY 1986 and FY 1985. The amounts shown in the summary table of the FY 1985 budget request were incorrectly distributed and resulted in grossly understating our FY1985 R&D ELT effort.

SENATOR ANDREWS: The RDT&E Administration request represents 40 percent of total RDT&E funding. While justifications are provided for contract work, none is provided for research included in RDT&E Administration. Please describe this research and provide the reason for the funding allocations proposed; for example, why is search and rescue administration funding nearly tripled over FY 1985 while overall search and rescue funding declines?

ANSWER: Approximately 85% of RDT&E administration funding pays salaries and benefits for Coast Guard R&D personnel (the remaining 15% is for leased space, utilities, and other administrative expenses). The 79 personnel at Headquarters plan and manage projects, and monitor contracts. The 116 personnel at the Coast Guard R&D Center perform in-house project work in the following areas:

1. Improve Probability of Detection in Search and Rescue
2. LORAN-C Signal Analysis
3. Global Positioning System
4. Aids to Navigation Signal Effectiveness
5. Photometric Measurements
6. Laboratory Support for other Offices
7. Tension Leg Platform Tendon Inspection Techniques
8. Marine Fire and Safety Research
9. Recreational Boating Safety - Safe Powering
10. Arctic Pollution Response
11. Hazardous Chemical Analysis
12. Hazardous Chemical Personnel Protection
13. Ocean Dumping Monitor System
14. Advanced Marine Vehicles
15. Lighter-Than-Air (LTA) Operational Evaluation
16. Command and Control
17. Alternate Hybrid Sources for Remote Lighthouses
18. Select Projects

The allocations for administration funding are based primarily on a pro-rata share of benefits to each program activity. The FY 1985 administration funding figures were incorrectly distributed and do not provide a valid comparison. The actual FY 1985 figure for Search and Rescue administration and the request for FY 1986 are approximately equal.

SENATOR ANDREWS: Why does search and rescue staffing decrease by 17 positions while search and rescue RDT&E Administration, which includes personnel compensation, increases from $879,000 to $2,252,000?

ANSWER: Both staffing and administration requirements for Search and Rescue (SAR) are approximately the same in FY 1985 and 1986. Unfortunately, as noted earlier, our FY 1985 costs were incorrectly distributed and do not provide a valid comparison between fiscal years. The correct FY 1985 figures for SAR staffing and administration requirements are approximately equal to the FY 1986 figures.

SENATOR ANDREWS: Marine Safety RDT&E Administration requests $445,000 and 19 positions. This amounts to $23,421 per person, which seems low especially after other administration costs are subtracted. Please explain the relationship of positions to funding for RDT&E Administration in general and for marine safety in particular.

ANSWER: Both administration and staffing figures in the summary table are approximate, based primarily on a pro-rata allocation of costs to each program activity. Additionally, the Marine Safety category includes the Fire and Safety Test Detachment. This group is staffed mostly by enlisted military personnel, whose salaries are substantially less than the professional grade scientists and engineers who are the more typical employees in other RDT&E programs. As a result, the average cost of administration for the Marine Safety category is less.

REPORT INSTRUCTIONS

SENATOR ANDREWS: The Senate Report directed the Office of Research and Development to expend $500,000 to continue upgrading digital electronic waterside intrusion detection equipment. On March 5, 1985, the Coast Guard informed the Committee that the Coast Guard's requirements for R&D of underwater intrusion detection systems have been incorporated into the Navy requirements. When will the DOD project be concluded? The report further states that the Committee expects the Commandant to be prepared to discuss procurement of advanced sonar equipment at this hearing. Please provide the information that has been prepared.

ANSWER: The DOD Waterborne Intruder Detection System (WIDS) project will begin with an evaluation of currently available intruder detection gear, both commercially and military developed. The evaluation of current technology is being done by Naval Sea Systems Command (NAVSEA), and should begin in September 1985 at Bangor, Washington. The demonstration will be completed in Fall 1986, and the Coast Guard will receive a report describing the results. This report will be used to determine the effectiveness of current SONAR equipment in satisfying Coast Guard requirements. The Coast Guard has no plans to procure advanced sonar equipment until these studies are complete.

SENATOR ANDREWS: The Committee directed the Secretary to make a grant in the amount of $349,000 to the Maritime Fire and Safety Association to develop a fire response capability for vessels through the acquisition of equipment and supplies and through training of fire response personnel. When was the grant made? What will be achieved with the results of this study?

ANSWER: The preliminary Coast Guard/Maritime Fire and Safety Association agreement was forwarded to the Association in December, 1984. The Association signed the grant and forwarded its plan on March 5, 1985. The Coast Guard co-signed the grant March 21, 1985. The Association's stated objective is to demonstrate a response capability for ship fires over the 110-mile channel of the lower Columbia River.

SENATOR ANDREWS: The Committee provided $500,000 to the contract program to enhance research in the area of alcohol abuse in recreational boating fatalities and accidents. The Committee further directed that the Coast Guard should report on its progress in this area prior to this hearing. The Committee has received a one page outline of the project approach. When will contracts be let?

ANSWER: The initial study contract will be awarded in May 1985. Requirements for follow-on contracts will be determined after the conclusion of the initial study.

SENATOR ANDREWS: Phase I "will seek currently available data, with reliability assessments for each type." Has this data been collected? If so, what are the results? To what extent has data from the NTSB been utilized?

ANSWER: The plan for phase I has been revised and will not be conducted in the manner originally stated. National Transportation Safety Board (NTSB) reports relating to alcohol were obtained and analyzed. These reports do not address any specific boating/alcohol incident, but deal with general trends in this area.

SENATOR ANDREWS: The phase I description cites problems with the existing data, yet there is no proposal to collect new data or develop better methodologies. What is gained by collecting available data and assessing its reliability?

ANSWER: Continued collection of existing data does provide significant information. In the rare instances when alcohol involvement is reported, the information is generally accurate. Collectively however the available data on boating and alcohol is of poor quality due to several factors. The most important of these include the self-reporting nature of boating accidents, state autopsy policies, the remoteness of boaters from Law Enforcement Personnel and the likelihood that survivors of accidents will be friends or relatives of those who were killed. No new data collection technique is proposed because there is currently not sufficient information to develop a better plan.

SENATOR ANDREWS: Phase II involves coordinating with other organizations. How would you use the methodologies of NHTSA and the National Research Council for studying highway accidents?

ANSWER: The NHTSA method for studying alcohol/traffic accidents relies on a dedicated data collection system which has been in existence for over 10 years. Even with this system only the data for a few states are considered accurate. The remaining states must be extrapolated. For a similar system to be effective for boating accidents, much more accurate data would be required. In an attempt to determine how better data can be obtained, the National Research Council will form a steering committee on boating and alcohol later this year.

SENATOR ANDREWS: Please describe the $388,000 in grants for related studies by the Office of Boating, Public and Consumer Affairs awarded in FY 1984.

ANSWER: These alcohol-related grants were awarded in fiscal year 1984:

American Canoe Association	
Canoeing safety public education project	$37,000
Boat/US Foundation	
Boating and alcohol brochure	$34,295
International Association of Chiefs of Police	
Analysis of legal framework of alcohol and boating	$65,000
Minnesota Medical Foundation	
Study of the Effect of alcohol and other stressors on boaters' physiological/psychological systems	$45,036
National Boating Federation	
Boating and alcohol boating safety course	$17,850
National Water Safety Congress	
Computerized boating safety education program with emphasis on alcohol	$188,917
Total	$388,098

SENATOR ANDREWS: Phase III is to be accomplished in FY 1985. When will the Committee receive the interim results?

ANSWER: Phase III is not yet under contract. A contract with the National Academy of Science (NAS) is projected for May 1985. Results are expected in September 1985. The Coast Guard has requested that these preliminary results not include policy recommendations, only research recommendations. If this request is honored the results should be available to the committee by early December.

FAMILY ADVOCACY PROGRAM

SENATOR ANDREWS: What is status of the family advocacy program?

ANSWER: We are pursuing initiatives in several areas. Instructions are being drafted on incest casehandling procedures and child care policy. Four Community Support Centers are on line. Through a cooperative agreement, the grant authority of the Department of Health and Human Services' National Center on Child Abuse and Neglect is being utilized to assure that demonstration projects in Family Programs are continued. Close coordination with the Army, Navy, and Air Force Family Programs is continuing in the areas of legislation, policy, and reporting standards. We are represented on their Family Advocacy and Family Policy Coordinating Committees. Our casehandling procedures have been expanded from dealing with reported family violence to referring families at risk to appropriate help in the early stages of trouble, and offering assistance to non-violent families with special physical, medical, and educational needs.

Our future plans call for continuing our basic Family Advocacy training efforts and expanding our specialized training efforts for investigators, medical, and dental personnel. Two more Community Support Centers are planned. Preventive efforts aimed at assisting the majority of our Coast Guard families will continue to be emphasized and expanded.

We have had extensive training programs involving Coast Guard wives (officer and enlisted), Command Enlisted Advisors, and our Chaplains. The wives of the Commandant, Vice Commandant, Master Chief Petty Officer of the Coast Guard - and other service leaders - are actively involved and the program has the full personal support of the Commandant.

SENATOR ANDREWS: How much is being spent in FY 1985 and 1986 for the Family Advocacy Program?

ANSWER: Approximately $600,000 for each year.

SENATOR ANDREWS: Has the Coast Guard complied with the senate report directive to assign family counselors at the remaining six major centers?

ANSWER: Counselors have been assigned at the six remaining centers.

SENATOR ANDREWS: How do the Coast Guard statistics for both wife and child abuse, and alcohol abuse compare to the other services? What is the trend for these problems: On the decline or rise?

ANSWER: Coast Guard statistics for family violence are equivalent to the other Services. The present trend shows an increase due to an increased awareness of family violence issues and reporting procedures as a result of our continuing education and training courses.

The incidence of alcohol abuse is also equivalent to that of the other services. The trend in inpatient admissions is slowly increasing. The reason appears to be attributable more to command awareness of the indicators of alcoholism rather than an increase in the number of alcoholics in the Coast Guard.

AQUATIC RESOURCES TRUST FUND

SENATOR ANDREWS: The balance in the Aquatic Resources Trust Fund is expected to grow to $225.25 million in FY 1986. Has the Coast Guard considered submitting legislation to offset more than $15 million in Operating Expenses from this fund?

ANSWER: The legislation authorizing the transfer of $15 million to our Operating Expenses appropriation was only enacted within the past year. Our FY 1986 budget requests the full amount authorized to be transferred. We have no plans to submit legislation to increase it.

SENATOR ANDREWS: On what was the Coast Guard's $45 million request to the Office of the Secretary based: A higher program level for recreational boating safety, or a higher operating expense transfer?

ANSWER: The request was based on full use of the authorized funds from the Boat Safety Account, i.e., $30 million for State recreational boating safety programs and $15 million for Coast Guard operating expenses for recreational boating safety services.

SENATOR ANDREWS: What Sportfishing Program goals has the Fish and Wildlife Service established for its $44 million program? Will any of these activities duplicate those of the Coast Guard?

ANSWER: Discussions with program administrators at the Fish and Wildlife Service indicate that their goals address the management of sportfish resources. Based on consultation with the Department of Interior,none of these activities duplicate Coast Guard efforts.

SENATOR ANDREWS: Provide for the record the FY 1983-1986 State boating grants. Would most States be able to match Federal funds at the $15, $20, and $30 million level. If not, why?

STATE ALLOCATIONS
FY 1983 -1985

STATE	FY 1983	FY 1984	FY 1985
Alabama	264,678.00	264,978.28	285,199.00
Arizona	156,294.00	169,138.28	177,636.00
Arkansas	226,652.00	220,479.29	242,495.00
California	569,664.00	907,760.28	798,399.00
Colorado	112,747.00	116,021.28	124,502.00
Connecticut	206,149.00	146,914.28	169,501.00
Delaware	131,059.00	124,508.28	134,832.00
DC	153,261.00	148,669.28	149,889.00
Florida	389,066.00	606,831.28	724,874.00
Georgia	276,434.00	256,144.28	277,666.00
Hawaii	94,946.00	113,417.28	144,487.00
Idaho	129,438.00	129,954.28	133,465.00
Illinois	230,747.00	218,281.28	238,330.00
Indiana	243,743.00	195,645.28	215,984.00
Iowa	234,864.00	212,783.28	247,894.00
Kansas	125,686.00	116,449.28	129,132.00
Kentucky	213,914.00	184,785.28	210,333.00
Louisiana	389,541.00	376,597.28	291,607.00
Maine	149,658.00	136,577.28	154,395.00

Maryland	480,591.00	618,923.28	720,783.00
Massachusetts	207,715.00	235,092.28	244,366.00
Michigan	639,758.00	539,336.28	558,485.00
Minnesota	479,663.00	410,948.28	518,640.00
Mississippi	190,470.00	222,383.28	218,090.00
Missouri	298,719.00	282,367.28	328,590.00
Montana	98,633.00	97,341.28	109,837.00
Nebraska	104,044.00	97,566.28	110,399.00
Nevada	110,792.00	100,972.28	113,427.00
New Hampshire	100,031.00	97,379.28	106,787.00
New Jersey	288,743.00	243,699.28	335,665.00
New Mexico	102,166.00	99,395.28	107,582.00
New York	703,412.00	258,749.28	307,467.00
No. Carolina	225,697.00	215,651.28	225,517.00
North Dakota	97,884.00	94,332.28	102,271.00
Ohio	390,762.00	263,132.28	470,360.00
Oklahoma	261,897.00	256,743.28	270,902.00
Oregon	211,781.00	211,311.28	203,765.00
Pennsylvania	318,267.00	287,107.28	313,334.00
Rhode Island	103,661.00	91,593.28	98,402.00
So. Carolina	188,862.00	230,871.28	291,438.00
South Dakota	101,079.00	92,105.28	99,745.00
Tennessee	223,545.00	197,099.28	209,708.00
Texas	637,155.00	584,651.28	603,075.00
Utah	120,543.00	122,020.28	136,846.00
Vermont	96,026.00	91,026.28	99,128.00
Virginia	163,450.00	173,448.28	243,787.00
Washington	000,000.00	170,226.28	168,162.00
West Virginia	111,110.00	104,753.28	118,799.00
Wisconsin	344,414.00	335,410.28	365,556.00
Wyoming	88,777.00	86,612.28	90,611.00
Am. Samoa	75,820.00	73,335.28	80,899.00
Guam	83,190.00	000,000.00	000,000.00
Puerto Rico	102,069.00	93,500.28	108,449.00
CNMI	77,814.00	73,348.28	80,928.00
Virgin Islands	87,919.00	76,632.16	87,580.00
Total	12,215,000.00	11,875,000.00	13,100,000.00

ANSWER: The FY 1986 allocation will depend on the amount provided in the FY 1986 Appropriation Act. However, based on the level requested, State amounts for FY 85 are representative of the FY 1986 allocations.

In FY 1983, two States and one Territory failed to meet the match requirement. They were Nebraska, Vermont and the Virgin Islands. American Samoa and the Northern Marianas are exempt from the matching share requirement. Nebraska, North Dakota, South Dakota and Vermont did not meet the full match in FY 1984, with shortfalls ranging from $1,800 to $28,000. The Coast Guard will not have data for FY 1985 until after year end. However, it is doubtful that there will be others unable to match funds. It is anticipated that ample State matching funds will be made available to meet the requirement at the $20 million level with less than five States having a problem at the $30 million level.

USER FEES

SENATOR ANDREWS: Last year's budget also assumed collections from user fees. And the committee was told that the necessary rulemaking would be promulgated. Was it? Will the Coast Guard realize $10.5 million in FY 1985 user fees? If not, please explain.

ANSWER: Although a Notice of Proposed Rulemaking to collect additional user fees using existing regulatory authority was developed, it was not promulgated, and an additional $10.5 million in FY 1985 user fees was not realized. Title 46 presently prohibits charging certain users for many of the services which would normally be eligible for cost recovery under Office of Management and Budget Circular No. A-125. Proposed legislation has been submitted which would expand the authority to collect user fees and recover $476 annually in costs incurred by the Coast Guard.

TRANSFER AUTHORITY

SENATOR ANDREWS: To what extent has the Coast Guard utilized the transfer authority provided by Section 5 of P.L. 98-557? Are there plans to transfer funds in FY 1985?

ANSWER: The Coast Guard has not yet used the authority of the Coast Guard Authorization Act of 1984 (P.L. 98-557) to transfer funds between appropriations. There are no plans to make any such transfers in FY 1985.

FY 1984 AC&I DEFENSE APPROPRIATIONS

SENATOR ANDREWS: Provide for the record the procurement and delivery estimates for items included in the Acquisition, Construction, & Improvement Appropriation of $300 million in FY 1984. Indicate expected date of obligation of funds.

ANSWER:

PROJECT	EXPECTED OR ACTUAL OBLIGATION	DELIVERY OF COMPLETION
VESSELS AND SMALL BOATS		
Patrol Boat (WPB) Replacement Procurement	Aug 84	Apr 87
210' Medium Endurance Cutter (A class)	Oct 84	Apr 86
210' Medium Endurance Cutter (B class)	Feb 86	Apr 87
378' High Endurance Cutter (WHEC) Fleet Renovation and Modernization (FRAM)	Jun 85	Apr 87*
USCG Storis Major Maintenance Availability	Sep 85	Jul 86
205' Medium Endurance Cutter Safety and Supportability Upgrades	May 85	Sep 86
CGC Yocona Safety and Support Upgrade	Nov 85	Sep 86
Polar Class Icebreaker - Main Propulsion Console Update	May 86	Sep 89
AIRCRAFT		
HU-25A Active Gated Television (AGTV)	Sep 86	Mar 88
Maintain Long Range Search (LRS) Capability - Phase IIA	Dec 84	Sep 85
HC-130 Search Radar - Phase II	Mar 86	Sep 87
Shipboard Helicopter Restraint System	Sep 86	Mar 88
Procure C-130 Aircraft	Dec 84	Dec 86
HC-130 Airborne Surveillance Systems**		

SHORE FACILTITIES

Secure Voice Communications Capability - Phase I	Sep 86	Jan 87
Voice Privacy (VP) Law Enforcement Communications - Phase I	Apr 85	Sep 85
Kodiak AK - Air Station Ready Crew Berthing	Sep 85	Nov 86
Kodiak AK - Air Station - Hanger I Retrofit	Sep 85	Nov 86
New Orleans, LA - Upgrade Air Station	Sep 85	Oct 86
Kodiak AK Support Center - Family Support	Apr 85	May 86
Kodiak AK Support Center Fire/ Security Alarm System	Sep 85	Nov 86
Kodiak AK Support Center Water Front Improvements	Sep 85	Nov 86
Honolulu, HI - Base Bulkhead and Wharf Phase II	Sep 85	Dec 85
Philadelphia, PA - Marine Safety Office (MSO) Phase II Delaware River	Jan 86	Feb 88
Miami Beach, FL - Base Facilities	Sep 85	Sep 87

ADMINISTRATION AND SURVEY AND DESIGN

Administration	Sep 84	Sep 84
Survey and Design	varies	varie

* First two cutters
** Funds proposed for reprogramming to fund Aerostats

GRENADA

SENATOR ANDREWS: How many Coast Guard vessels are currently assigned to Grenada? When will they return to the 7th District? Are they performing any direct Coast Guard missions while detailed to Grenada?

ANSWER: There are no Coast Guard vessels currently assigned in Grenada nor are there any more scheduled for assignment there. The last Coast Guard vessel assigned in Grenada was the USCGC MORRO BAY, which departed Grenada on April 15, 1985 and has returned to her homeport of Yorktown, Virginia.

OBJECT CLASS BREAKDOWN

SENATOR ANDREWS: Provide for the record the object class breakdown for operating expenses shown on pages 239-242 of House FY 1985 Hearing Volume 1.

DEPARTMENT OF TRANSPORTATION
COAST GUARD
OBJECT CLASSIFICATION SUMMARY
OPERATING EXPENSES APPROPRIATION
(DIRECT AND REIMBURSABLE)
($000)

OBJECT CLASS	TITLE	ACTUAL OBLIGATIONS FY 1984	ESTIMATE OF OBLIGATIONS FY 1985	ESTIMATE OF OBLIGATIONS FY 1986
11	Personnel Compensation			
	Military Pay & Allowances	725,342	746,426	739,227
	Civilian Pay & Allowances	116,689	118,805	113,944
	Object Class Total	842,031	865,231	853,171
12	Personnel Benefits			
	Military Benefits	48,719	50,161	49,384
	Civilian Benefits	14,053	14,311	13,725
	Object Class Total	62,772	64,472	63,109
21	Travel & Transportation of Persons			
	Training	11,802	11,975	11,365
	Program	17,156	17,409	16,415
	Permanent Change of Station	14,089	14,295	13,673
	Administrative and Other	2,564	2,602	2,469
	Object Class Total	45,611	46,281	43,922
22	Transportation of Things			
	Household Goods Shipment	31,219	32,323	29,912
	Non-passenger Vehicle Rental	4,757	4,926	4,558
	Other	136	140	130
	Object Class Total	36,112	37,389	34,600

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DEPARTMENT OF TRANSPORTATION
COAST GUARD
OBJECT CLASSIFICATION SUMMARY (CONT'D)
OPERATING EXPENSES APPROPRIATION
(DIRECT AND REIMBURSABLE)
($000)

OBJECT CLASS	TITLE	ACTUAL OBLIGATIONS FY 1984	ESTIMATE OF OBLIGATIONS FY 1985	FY 1986
23	Rent, Communications, & Utilities			
	Leased Family Housing	24,876	25,843	26,848
	Communications	25,555	26,566	27,594
	Electricity	23,385	24,250	25,208
	Leased Real Property	19,091	22,852	22,852
	Postal	6,255	6,473	6,677
	Leased Equipment	3,589	3,779	3,855
	Water & Sewerage	3,136	3,296	3,357
	Other	1,286	1,195	1,224
	Object Class Total	107,173	114,254	117,615
24	Printing & Reproduction	6,055	6,276	3,978
25	Other Services			
	Repairs & Maintenance of:			
	Shore Facilities	80,514	85,042	95,699
	Cutters & Small Boats	44,357	46,851	52,622
	Medical	41,061	43,371	48,772
	Aircraft	35,857	37,874	42,591
	Electronic Equipment	12,692	13,405	15,076
	Aids to Navigation	4,757	5,025	5,650
	Automatic Data Processing	11,809	12,473	14,027
	Training	1,450	1,531	1,721
	Routine Recreation Services	300	316	356
	Other	42,924	45,338	50,985
	Object Class Total	275,721	291,226	327,499

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DEPARTMENT OF TRANSPORTATION
COAST GUARD
OBJECT CLASSIFICATION SUMMARY (CONT'D)
OPERATING EXPENSES APPROPRIATION
(DIRECT AND REIMBURSABLE)
($000)

OBJECT CLASS	TITLE	ACTUAL OBLIGATIONS FY 1984	ESTIMATE OF OBLIGATIONS FY 1985	ESTIMATE OF OBLIGATIONS FY 1986
26	Supplies & Materials			
	Supplies & Materials for Repairs & Maintenance of:			
	Shore Facilities, Cutters, & Small Boats	33,719	36,827	37,127
	Aircraft Accessories	20,417	22,299	22,481
	Maintenance Supplies	74,837	81,735	82,401
	Fuel - Aircraft, Cutters, & Small Boats	84,183	91,942	92,691
	Dining Facility Provisions	21,696	23,696	23,889
	Training Supplies & Materials	2,236	2,442	2,461
	Aids to Navigation	11,534	12,597	12,700
	Other	43,479	47,487	47,873
	Object Class Total	292,101	319,025	321,623
31	Equipment	71,478	74,296	77,043
32	Lands & Structures	2,870	2,962	3,070
42	Insurance Claims & Indemnities	1,996	2,068	2,143
43	Interest & Dividends	306	317	328
	Total, All Object Classes	1,744,226	1,823,797	1,848,101

RETIRED PAY

SENATOR ANDREWS: What level of inflation for medical care was realized during FY 1984, estimated for FY 1985 and assumed in the FY 1986 budget request?

ANSWER: Historically, medical care costs have experienced a much higher rate of inflation than the general economy. Our budget reflects this fact. In 1984, medical care realized a 10.4 percent inflation rate. In 1985, we estimate a 12.6 percent rate and in 1986, we assumed a 12.4 percent rate of inflation.

PAY SUPPLEMENTAL

SENATOR ANDREWS: What absorption rate is assumed for the Operating Expense Pay Supplemental of $18 million and $1.468 million for Reserve Training?

ANSWER: The pay raise supplemental absorption rates are 30% for Operating Expenses and 4% for Reserve Training appropriations.

SEARCH AND RESCUE (SAR)

SENATOR ANDREWS: What is the current Search and Rescue effective rate? Will the Coast Guard achieve its 85 percent goal by 1986? If not, why not?

ANSWER: A planning analysis done several years ago looked at what SAR effectiveness the Coast Guard might hope to achieve. Different scenarios were considered, using different resource levels. A simplistic effectiveness formula was developed to contrast results. It attempted to determine effectiveness by dividing the number of lives saved by the number of lives saved plus the number of lives lost. Under a scenario of unconstrained resources, the Coast Guard estimated that the maximum effectiveness that could be attained in SAR was 85 percent. However, no further effort was made to refine the knowingly oversimplified measurement formula. Nor, was this methodology ever used as the basis for determining budgetary requirements. Consequently, the Coast Guard has discontinued any attempts to measure SAR program effectiveness this way.

SEARCH AND RESCUE (SAR)

SENATOR ANDREWS: What is the current assessment of non-emergency SAR response? Is the towing policy under review, and if so, when and in what ways might it be modified?

ANSWER: In fiscal year 1984, the first year for which data on commercial responses was collected, approximately 2 percent of reported non-emergency assistance cases were handled by commercial firms. We do not forecast any significant increase in that figure. We have requested legislation to require operators of commercial towing vessels under 26 feet to be licensed. Our policy is constantly under review, and as our operating units, commercial operators, and the public gain experience and familiarity with it we will consider appropriate modifications to it; however, no major changes are under consideration at this time - only minor tune-ups.

SENATOR ANDREWS: Provide an update of both charts found on page 860 of last year's Senate hearing regarding cutter delivery and replacements.

ANSWER: Revised information (as of FEB 85) is:

CUTTER REPLACEMENT SCHEDULE

Estimated Replacement Date	Cutter to be Replaced	Estimated Replacement Date	Cutter to be Replaced
OCT 84*	CAMPBELL	MAR 87	CITRUS
MAY 85	DUANE	AUG 87	EVERGREEN
SEP 85	BIBB	NOV 87	TAMAROA
DEC 85	INGHAM	MAR 88	CHILULA
JUL 86	TANEY	AUG 88	CHEROKEE
AUG 86	UNIMAK	NOV 88	YOCONA
NOV 86	CLOVER		

270 FOOT CUTTER DELIVERY SCHEDULE

Cutter	Current Contract Delivery	Contractor's Production Schedule	Homeport
A CLASS - TACOMA BOATBUILDING COMPANY, TACOMA WASHINGTON			
BEAR	25 JAN 83*	25 JAN 83*	PORTSMOUTH, VA
TAMPA	05 DEC 83*	05 DEC 83*	PORTSMOUTH, VA
HARRIET LANE	09 MAY 84*	09 MAY 84*	PORTSMOUTH, VA
NORTHLAND	15 JUL 84*	15 JUL 84*	PORTSMOUTH, VA
B CLASS - R. E. DERECKTOR, INC., NEWPORT RHODE ISLAND			
SPENCER	24 JUL 84	30 JUN 85	BOSTON, MA
SENECA	09 NOV 84	30 SEP 85	BOSTON, MA
ESCANABA	13 FEB 85	30 DEC 85	BOSTON, MA
TAHOMA	13 JUN 85	03 MAR 86	NEW BEDFORD, MA
CAMPBELL	09 OCT 85	05 MAY 86	NEW BEDFORD, MA
THETIS	06 FEB 86	04 AUG 86	LONG BEACH, CA
FORWARD	06 JUN 86	03 NOV 86	LONG BEACH, CA
LEGARE	04 OCT 86	02 FEB 87	LONG BEACH, CA
MOHAWK	01 FEB 87	01 JUN 87	LONG BEACH, CA

* Actual date

SENATOR ANDREWS: Explain any delays in vessel delivery from dates shown last year.

ANSWER: A three month slip in R. E. Derecktor's production schedule results from a combination of the impact of Coast Guard contract modifications and construction progress. The majority of retrofit work being done on the A Class ships at the Coast Guard Yard has been added to the DERECKTOR contract. This will reduce retrofit time by about 6 months for each B Class ship. Since contract modifications are under negotiation, changes in both the Contract Delivery and Production Schedule could result.

OPERATING EXPENSES - ICE OPERATIONS OBLIGATIONS

SENATOR ANDREWS: Explain the increase in FY 1985 "Ice Operations" obligations from the requested $30.8 million to the current estimate of $41.4 million. The FY 1985 Department of Defense appropriations transfers $10.5 million for its share of operations of the polar icebreaking fleet. What will the actual obligations be in FY 1985 and 1986 for polar icebreaking and what amounts will be received from each user agency?

ANSWER: The increase in FY 1985 "Ice Operations" obligations primarily reflects the transfer of $10.5 million from Department of Defense appropriations: The effect was to increase the estimated program obligation with a corresponding and offsetting decrease in reimbursables.

The estimated obligations for Fiscal Years 1985 and 1986 are as follows (dollars in millions)

	1985	1986[1]
Department of Defense	$11.1	$17.3
National Science Foundation	15.0	11.9
Maritime Administration	0.8	0.8
Coast Guard	5.2	4.6
Other Agencies (not regular users)	0.0	.4
TOTAL	$32.1	$35.0

Note 1. The specific amounts to be received from each agency in 1986 have not been finalized at this time. The subject of reimbursements, both as to funding levels and methodology, are currently under discussion with all involved parties.

SENATOR ANDREWS: The justification states that a council of the polar ice operations user agencies is reviewing the cost sharing system. What is the timetable for completing this study? When will a new cost level be assessed for each agency? Does the Coast Guard prefer that the statutory transfer approach be utilized for user agencies other than Defense? If not, why not?

ANSWER: The study has been completed and a proposal, supported by the members of the Polar Icebreaker User Council, is under review. In accordance with the Polar Icebreaker Requirements Study, the User Council proposal will be forwarded to the Secretary of Transportation for her review and approval.

If the statutory transfer approach means returning the "fixed cost" funding to the Coast Guard's Operating Expense base on a recurring basis, then, yes, we do prefer it. If it involves non-recurring transfers each year, then, no, we do not prefer the statutory transfer approach. Non-recurring transfers do not offer the flexibility that a system as dynamic as icebreaker scheduling requires. The long lead time, 18 months or more, to put such transfers in each annual budget assume that the parameters governing icebreaker scheduling remain relatively stable. Icebreaker schedules, however, are anything but stable and predictable. Part of this is because polar icebreakers operate in a harsh and unpredictable environment which results in unscheduled maintenance and repair requirements. In addition to our regular annual user agencies, other agencies using icebreaker services do not have annual requirements. This contributes to the unpredictability of icebreaker schedules.

SENATOR ANDREWS: How many polar icebreaking vessels are currently active? What is the status of design work for a new class polar icebreaking vessel?

ANSWER: Five polar icebreakers are still in commission. However WESTWIND is not safe to sail. This leaves only four truly operational or "active" ships. The design work for the new icebreakers has progressed to the early stages of the conceptual design phase. The crewing study is also underway.

SENATOR ANDREWS: Domestic ice operations for FY 1984 were estimated last year at 4,400 cutter hours. Yet the actual level was only 3,300 hours. Why, then, does the FY 1985 and 86 projection remain at the 4,400-hour level? What operating expense savings are achievable with this 25 percent reduction?

ANSWER: The projection is based on multi-year averages of operations. The actual level of operations is highly unpredictable because it is dependent upon the the amount of ice that forms each year. Ice conditions, in turn, are dependent on the severity of the winter. When a light ice year occurs, the regular navigation season starts earlier in the year. This results in domestic icebreakers being shifted to other missions for which they were also designed. The reverse of this process happens in "heavy" ice years. Therefore, the actual cutter hours for "domestic ice operations" may not match programmed hours in any given year. The hours are, however, used for other legitimate Coast Guard missions. With this "multi-mission" process working, there are actually no operating expense savings when viewing the Coast Guard budget as a whole.

SIDEARM REPLACEMENT

SENATOR ANDREWS: What will be the total cost of replacing .45 and .38 caliber weapons with 5,500 9mm handguns? How much is being spent in FY 1985? What is the current percentage of law enforcement cases in which sidearms are used? What savings will be realized by Armed Forces-wide compatibility? Would there be any need to replace current weapons were it not for the 1980 Congressional directive? How will the replaced weapons be disposed of?

ANSWER: The total cost of replacing the .45 and .38 caliber handguns will be $2,080,000. This price includes spare parts, and ancillary equipment. In FY 1985 the Coast Guard is spending $30,410 for 9mm handguns. This purchase is for a small quantity (100) needed to fill an urgent requirement for Coast Guard Special Agents. The current percentage of law enforcement cases in which sidearms are used is 100%. It is the Coast Guard's policy that all law enforcement boarding parties be armed. Specific savings realized by an Armed Forces-compatible weapon are unknown. However, intuitively a Coast Guard peculiar handgun would cost more due to the smaller quantities purchased, and because of independent logistic support and monitoring of contracts. It would also hinder the Coast Guard from assimilating into the Navy during a state of national emergency. The current weapons used by the Coast Guard would still require replacement without the 1980 Congressional directive, because of mechanical and stress failures of our current 40 plus year old weapons. All .45 and .38 caliber weapons replaced by the 9mm will be turned over to the Defense Logistics Agency for disposal.

MARINE ENVIRONMENTAL PROTECTION

SENATOR ANDREWS: Port safety vessel boardings and facility inspections are reduced from last year's estimate of about 40,000 annually in each category to 2,500 - 3,500 (page 25). What change in policy has occured to explain the decrease?

ANSWER: A decline in vessel boardings from 41,489 in 1983 to 2,500 in 1984 was reported in this year's performance data submission. The magnitude of this decline is in error. Three circumstances combined to produce the inaccurate figures. First, program policy was refined to target boardings toward vessels with histories of poor performance. Therefore, some reduction in the raw number of boardings was expected. Secondly, transition was being made to the long-range Marine Safety Information System (MSIS), which caused underreporting. This underreporting in MSIS was recently identified by cross-checking Quarterly Activities Report data just available. Work has begun to correct this disparity. Finally, boarding reporting requirements were clarified to eliminate incidents of double counting that were discovered in the 1983 data. The following information corrects the 1984 actual, and 1985 and 1986 estimates:

	1984 actual	1985 estimate	1986 estimate
Port Safety			
Cargo vessels/ barges boarded	14,136	14,306	14,478

The decline in waterfront facility inspections from 41,124 to 3,151 is the result of distinguishing between approximately 36,000 waterfront facility spot check reports and facility inspections. Waterfront facility spot checks have been integrated into our boarding and harbor patrol activities. Adding to the decline is the successful transfer of inspection of packaged and container cargo facilities to local entities (e.g., fire departments), where they are willing and capable.

PERSONNEL COMPENSATION

SENATOR ANDREWS: Obligations for military personnel compensation have exceeded last year's FY 1984 and 1985 estimates by $46 and $66 million, respectively. Why? Why does full-time permanent position compensation decrease compared to last year's estimates for the same period?

ANSWER: The FY 1984 and 1985 estimates for military compensation and full-time permanent positions were based on projected data. The estimates in the FY 1985 budget should have been $701,880,000 versus $666,373,000 for FY 1984 and $704,573,000 versus $666,077,000 for FY 1985 military compensation. The full-time permanent position dollar estimates should have been $106,357,000 versus $132,105,000 for FY 1984 and $107,552,000 versus $131,210,000 for FY 1985. With these adjustments, the difference between the two sets of estimates reflects personnel fluctuations between one fiscal year and the next.

SENATOR ANDREWS: What does this trend indicate regarding A-76 implementation? Are the personnel savings associated with contracting out being realized as projected?

ANSWER: While A-76 implementation in FY 1985 indicates that the Coast Guard will reach its reduced goal of full-time positions, the dollar savings objective will not be fully reached. This is because the number of spaces saved do not parallel the dollars associated with full-time equivalency. The Coast Guard expects this trend to continue into FY 1986.

SENATOR ANDREWS: Explain the increase of $2 million for FY 1984 and 1985 reimbursable military compensation in this year's justification compared to last year.

ANSWER: A number of factors contributed to the increase. The 4% FY 1985 pay increase was effective for three quarters of FY 1985 but was not included in the FY 1985 budget. In effect, this caused a 3% increase in our original estimates. Also, the higher retention rates we have been experiencing have led to higher than anticipated average salaries.

However, the main reason for the increase is that the object class distribution used for FY 1983 was inaccurate. Last year's FY 1984 and 1985 estimates for military compensation and full-time permanent positions were based on FY 1983. The estimates in the FY 1985 budget should have been $11,460,000 versus $10,123,000 for 1984 and $12,371,000 versus $10,584,000 for FY 1985 military compensation. With these adjustments, the difference between the estimates reflects personnel fluctuations from on fiscal year to the next.

EQUIPMENT

SENATOR ANDREWS: Obligations for equipment were 30 percent higher in FY 1984 than estimated in last year's budget. The FY 1985 increase is almost 25 percent. Equipment spending in the FY 1982-1984 timeframe was half the levels now shown for the FY 1984-1986. What justifies this increase? What specific operational savings have resulted in FY 1984 and 1985 to offset increased equipment expenditures?

ANSWER: There are two areas which depict Coast Guard equipment cost increases: replacement equipment for cutters and aircraft, and replacement of electronic equipment. Many of the aircraft and cutters which the Coast Guard is replacing are of WW-II vintage. The equipment on these older cutters and aircraft is insufficient to perform the current and future search and rescue, enforcement of laws and treaties, defense readiness, and other missions of the Coast Guard, since many of them have limited capabilities and are reaching the end of their life cycles. The replacement equipment, while it costs more to procure and operate than older counterparts, allows for more productivity per person and piece of equipment. Savings are intangible but are related to accomplishments in search and rescue, aids to navigation, enforcement of laws and treaties, marine safety, defense readiness and other Coast Guard missions.

TRAVERSE CITY POLLUTION

SENATOR ANDREWS: The budget requests $625,000 Operating Expenses and $1.8 million AC&I for cleanup of groundwater contamination at Air Station Traverse City. When did this problem first surface?

ANSWER: Contamination of wells in the Avenue E area of East Bay Township was the first sign of a problem in October of 1980.

SENATOR ANDREWS: If the contamination presents an urgent hazard, why was not a supplemental requested?

ANSWER: The urgent problem of providing a safe drinking water supply to the residents was completed in 1982 with reallocated Coast Guard funding. The remaining problem, while significant, does not pose an urgent hazard to human health as long as it does not enter the East Arm of Grand Traverse Bay.

SENATOR ANDREWS: How many other Coast Guard facilities may require purging systems in the future and what will be the total cost?

ANSWER: At the present time the Coast Guard is aware of and investigating three other sites with similar problems. None of the sites have been evaluated to the degree that reliable cost estimates can be made.

SENATOR ANDREWS: What is the Navy's contribution to acquire the groundwater system?

ANSWER: The Navy has not been asked to contribute to the groundwater system as none of the existing problems have been traced back to the Navy's operation at Traverse City.

AC&I OBLIGATIONS

SENATOR ANDREWS: What "Other Services" are included in the FY 1986 request for $40,768,000? Why has this category doubled over last years estimate?

ANSWER· The other services for FY 1986 include items for repair and maintenance of automatic data processing (ADP) equipment, routine services supporting ADP, engineering reports, architectural engineering services, validation and verification contracts, training and numerous small contracts. The increase supports the technologically advanced equipment being utilized by the Coast Guard. These higher costs also reflect efforts to comply with A-76 Guidelines to contract out where possible and beneficial. Coast Guard has increased efforts in this area significantly. The UTE, LIPAN, and ESCAPE overhaul, the 210-foot Mid-Life Maintenace are examples of items being contracted out.

RESEARCH, DEVELOPMENT, TEST & EVALUATION: SEARCH AND RESCUE

SENATOR ANDREWS: The budget estimate for FY 1986 projects a benefit from a one percent increase in effectiveness of search and rescue operations as resulting in an increase of 70 lives saved and $10 million in property loss prevented. Is this a realistic projection and, if so, within what timeframe?

ANSWER: Improvements in probability of detection resulting from this continuing project will be incorporated over the next several years through changes to the Search and Rescue Manual. Although it is difficult to estimate when the 1% threshold will be reached, the prediction is close to being realized for the SARSAT project. Since the SARSAT demonstration started in February 1983 until February 1985, the total number of lives saved has increased to 352 worldwide. In the U. S., 111 lives were saved with corresponding savings in property in the millions of dollars. For much of that period, only one or two satellites were operational. SARSAT II only became operational in January 1985. This means there are now four satellites in orbit (2 U.S. and 2 Soviet), so we expect the number of rescues to increase.

SENATOR ANDREWS: What increase in productivity will recent projects yield, such as the infrared sensor for the HH-65 helicopter and the successful demonstration of the RRS system on WHEC-378' cutters? If this area has such high potential benefits, why is funding being cut from $600,000 in FY 1983 to $250,000 in FY 1985?

ANSWER: The Forward Looking Infrared (FLIR) sensor for the HH-65 will greatly increase visibility for foul-weather and nighttime searches. Rudder Roll Stabilization (RRS) permits aircraft take-offs and landings on Coast Guard cutters in adverse sea states. The decrease in funding from FY 1983 to FY 1985 resulted from completion of the RRS project in FY 1984.

SENATOR ANDREWS: The Search and Rescue Satellite Aided Tracking system (SARSAT), while not fully operational, has saved 140 lives during a 15 month demonstration, according to budget estimates. This impressive performance raises the question of national implementation, despite some problems which may still need resolution. Would you provide a description of your research and implementation plans for this project?

ANSWER: SARSAT has recently completed a two year Demonstration and Evaluation phase. It will be in an initial operational phase through approximately 1990. It has met with considerable success and acceptance internationally but it is not yet fully established. Within the U.S., work continues to establish the ground (surface) network to provide adequate coverage over our areas of established search and rescue (SAR) responsibility. The Coast Guard is seeking two additional ground terminals to attain this coverage, to provide communications links, and to improve equipment reliability. We are trying to integrate SARSAT data from all ground terminals by central processing to eliminate extraneous and incorrect information. A more efficient technique to correlate SARSAT data with all other SAR data is being reviewed. Immediate alerting to the SARSAT ground system by geostationary satellite will be tested starting in 1986. International channels for exchange of SARSAT data are being developed and refined. The Coast Guard will continue to provide SARSAT briefings in the SAR forums in which we are active. Additionally, efforts are underway to improve the quality of the distress beacons to attain low costs and fewer false activations. These efforts should come to fruition approximately 1990 when we expect to have a fully operational system.

SENATOR ANDREWS: What are the shortcomings that make a system which has saved 140 lives unacceptable for operational use without further development.

ANSWER: SARSAT has undergone a Demonstration and Evaluation phase to prove the concept of using satellites for detection of distress signals from low cost beacons. The number of lives saved attest to the merits of the concept. SARSAT works with two types of beacons, the current mandatory 121.5 MHz and the experimental 406 MHz. The 121.5 beacon was not designed with satellite detection in mind and thus has numerous technical weaknesses which need to be resolved. Many modifications to the ground network have been generated to cope with those weaknesses. Without additional ground terminals, many key areas of the U.S. SAR region are not covered by SARSAT. The 406 MHz beacon was designed for satellite detection but, as a new technology, it needs to be further developed to become an affordable device. With four satellites in place, a high volume of message traffic is generated for the Air Force and Coast Guard rescue coordination centers (RCCs) to handle. The present false alarm rate of the 121.5 MHz beacon generates potentially over 200 distress messages per day. This data needs to be rapidly correlated with other SAR data at the RCC. Further efforts are needed to make this system less labor intensive and more automated. Our network is a regional part of an expanding global network. Extensive work remains in the international arena to exchange SARSAT data while avoiding duplication of efforts, coverage and costs.

SENATOR ANDREWS: What will system implementation cost? Prior year accomplishments include the launching of two Soviet and one U.S. satellite. What funding was used for these efforts? Which agencies and/or foreign governments are contributing to this program?

ANSWER: SARSAT and COSPAS are two separate but interoperable satellite systems designed to work with a compatible ground network. The intention is to develop a global system. The COSPAS costs are borne by the Soviet Union. Within SARSAT, NOAA provides their polar orbiting weather satellite as host for the SARSAT package; Canada provides the 121.5 MHz beacon signal processing equipment; France provides the 406 MHz signal processing equipment and NASA funds integration of the equipment aboard the satellite. The ground network cost is borne by the nations involved. In addition to the four nations stated above, Norway, United Kingdom, Sweden, Finland and Bulgaria are now active participants and fund their ground network. Within the United States, the ground network and distress beacon development costs are borne by National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, Air Force and Coast Guard. No comprehensive system implementation cost has been determined. However, the satellite network and the majority of the ground network for the U.S. is already in place and operating. The Coast Guard is considering establishing two additional ground terminals to cover gaps that exist in our established areas of search and rescue responsibility. Each terminal costs approximately $2.3 million.

AIDS TO NAVIGATION

SENATOR ANDREWS: The Coast Guard is proposing to devote $700,000 in FY 1986 to research on the "Global Positioning Navigation System - Report on Accuracy, Availability, and Effectiveness of Civilian Access Signal. Procure GPS receivers for field testing. Field test and evaluate available user equipment." Is this research necessary when it has already been determined that the "repeatable accuracy of LORAN-C is five times greater than that which will be provided to the civil community by GPS"?

ANSWER: Yes, this research is necessary because the Global Positioning System (GPS) will replace LORAN-C under the provisions of the Federal Radionavigation Plan (FRP) in a phased transition starting in late 1987. The standard positioning service (SPS) provided to the civil user by GPS will not be as accurate as LORAN-C in the repeatable mode, as indicated in the question. Therefore, we must evaluate means to enhance the SPS signal to provide the accuracy required by the civil user, in view of the fact that the precise positioning service (PPS), a Department of Defense requirement, will not be generally available. In fact, the enhanced SPS signal, called differential GPS, will be a vast improvement over the present LORAN-C system. It is anticipated that differential GPS will provide 5 to 20 meter accuracy throughout the entire Coastal Confluence Zone (CCZ), whereas only 50% of the CCZ has repeatalbe LORAN-C accuracy of better than 40 meters.

SENATOR ANDREWS: Since LORAN-C is in place for most marine users, receivers are available and economical, and the system will remain until the end of the century, why is further GPS field testing necessary?

ANSWER: Further GPS equipment development and testing could demonstrate the redundancy of coverage between GPS and present radionavigation systems and thus provide a basis for shortening the transition period when the Federal Radionavigation Plan (FRP) is updated in 1987. A reduction in the length of transition could result in significant cost savings from early phase-out of present navigation systems.

SENATOR ANDREWS: It appears that more basic research is needed in developing and improving GPS accuracy before evaluating receivers and field testing. Why isn't research being devoted to improving GPS performance (i.e., improving accuracy to at least that of LORAN-C)?

ANSWER: Two GPS signals will be transmitted. One, meeting Department of Defense requirements, called the precise positioning service (PPS), is extremely accurate, but will not be provided to the general public because of national security considerations. The second signal, called the standard positioning service (SPS), will provide 100 meter accuracy to all users on a virtually worldwide basis. We are devoting research to enhancing the SPS signal through differentiation to provide 5 to 20 meter accuracy in the Coastal Confluence Zone.

SENATOR ANDREWS: Do either LORAN-C or GPS offer realistic potential to improve navigation for non-commercial vessels?

ANSWER: Both offer the potential to improve navigation for non-commercial users. The standard positioning service of GPS will provide worldwide 100 meter coverage, and can be differentiated to provide even greater accuracy where required. LORAN-C presently provides 500 meter accuracy offshore for general navigation, and can provide 40 to 80 meter accuracy in the repeatable mode. If differentiated, LORAN-C can provide an accuracy capable of meeting the precise navigation requirements of harbor and harbor approaches.

SENATOR ANDREWS: What were the deaths, injuries and losses due to collisions, rammings, and grounding over the last ten years by size and/or type of vessels? (Provide answer in such detail as available)

ANSWER: The following tables provide the data requested by year. Ten year totals are to the left of each category:

COLLISIONS AND RAMMINGS

Ten Year Total	Vessel Type	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
	Freightships										
2,684	Involvements[1]	307	311	310	347	404	411	190	162	118	124
228,166	Damage($1000's)	15,147	16,176	19,312	15,069	29,417	28,612	16,069	30,448	42,673	15,243
21	Deaths	14				6	1				
39	Injuries	4	7		2	4		6	3	10	3
	Tankships										
1,196	Involvements	112	152	114	136	196	179	119	79	59	50
202,610	Damage	5,030	42,555	5,849	18,734	15,399	17,761	15,775	11,069	22,049	48,389
35	Deaths	2	33								
16	Injuries	2	9				3		2		
	Tugs										
8,349	Involvements	946	983	921	1,047	1,133	1,168	764	452	506	429
163,572	Damage	9,342	12,641	6,147	8,688	8,042	17,280	12,475	19,152	45,607	24,298
39	Deaths	8	3	1		3	6	5	2	6	5
94	Injuries	6	3	16	7	8	8	10	14	19	3
	Fishing										
2,126	Involvements	220	189	199	236	355	268	241	130	138	150
42,672	Damage	2,941	2,179	2,428	2,733	4,985	4,793	4,211	6,177	5,215	7,010
43	Deaths	3	18	5	2	5	1	1	4		4
63	Injuries	7	3	13	10	12	3	4	1	5	5

Footnotes:

1. The frequencies shown on the Tables relate to vessel involvements and not accidents. For each marine accident there are one or more vessels involved. In the case of barges, which include tows that can contain many barges an accident can involve 20 to 40 barges; that is why the frequencies shown in the table for barges are much larger when compared to the involvements for other vessels.

2. The frequencies shown for passenger vessels include both large and small vessels.

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GROUNDINGS

Ten Year Totals	Vessel Type	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
	Barges										
7,164	Involvements	292	370	752	551	544	906	868	994	880	1,007
106,626	Damage	6,014	11,162	7,058	9,597	19,331	12,447	9,016	7,756	9,037	15,208
1	Deaths	1									
1	Injuries								1		
	Passenger [2]										
395	Involvements	34	38	51	39	42	44	32	35	38	42
7,035	Damage	207	545	419	259	312	1,569	976	629	1,463	656
3	Deaths								1	1	1
15	Injuries		4	3	1				3	1	3
	OSV										
66	Involvements	5	12	6	5	2	10	6	6	3	11
3,097	Damage	90	68	354	830	10	249	97	88	944	367
0	Deaths										
1	Injuries										1
	Other										
396	Involvements	41	54	79	55	40	42	28	20	16	21
27,075	Damage	424	920	10,218	945	1,424	2,560	556	337	565	9,126
4	Deaths	1			1		2				
4	Injuries						2				2

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GROUNDINGS

Ten Year Totals	Vessel Type	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
	Freightships										
1,307	Involvements[1]	162	136	152	165	160	157	62	111	97	105
113,723	Damage($1000's)	14,190	4,931	7,433	10,287	3,349	5,795	50,022	11,043	4,634	2,039
0	Deaths										
0	Injuries										
	Tankships										
864	Involvements	94	89	95	112	124	120	62	59	40	69
115,478	Damage	10,028	3,993	12,139	5,940	9,850	4,248	50,788	16,867	1,048	577
0	Deaths										
0	Injuries										
	Tugs										
5,017	Involvements	288	298	531	446	469	647	604	590	504	640
54,675	Damage	948	3,201	2,284	1,241	1,945	14,475	2,272	17,769	4,304	6,236
7	Deaths					7					
14	Injuries	1	4		2	5			1	1	
	Fishing										
2,326	Involvements	235	213	211	267	303	310	235	182	159	211
71,282	Damage	4,880	3,365	2,072	7,422	6,058	9,485	9,245	10,806	9,584	8,365
35	Deaths	5	5	2	1	5	6	5	2		4
17	Injuries	2	2		1	1	4		2	1	4

COLLISIONS AND RAMMINGS

Ten Year Totals	Vessel Type	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
	Barges										
8,778	Involvements	1,024	1,018	854	1,092	1,088	1,202	746	565	653	536
283,145	Damage	17,341	16,775	9,230	14,690	17,349	31,865	13,800	48,398	89,130	24,648
4	Deaths	1								3	
14	Injuries		3	3	1				5	2	
	Passenger[2]										
683	Involvements	66	80	63	86	85	95	79	43	36	50
14,954	Damage	952	656	1,399	1,816	1,848	1,327	1,940	2,182	1,677	1,157
85	Deaths			78		3	3			1	
183	Injuries	28	10	24	11	10	10	5	66	15	4
	OSV										
369	Involvements	33	36	34	29	44	59	34	30	35	35
12,966	Damage	3,124	198	365	407	360	595	1,787	1,096	3,298	1,736
3	Deaths	3									
15	Injuries	1	1		2	2	2		3		4
	Other										
1,811	Involvements	169	235	254	239	282	257	140	82	72	81
89,777	Damage	4,153	17,810	5,684	3,927	7,761	12,170	7,843	6,239	7,475	16,715
88	Deaths	9	15	12	12	26	5	5	3	1	
87	Injuries	7	17	6	16	18	11	4	3	1	4

SENATOR ANDREWS: Does the Coast Guard have a mechanism or procedure to quickly determine if a navigational aid has been shifted from its correct location (for example, when ice floes move buoys)? Will this problem be addressed by the research on the automated aid positioning system?

ANSWER: More often it is the user who is quick to notify the Coast Guard of a discrepancy. Or a "storm survey" is conducted, in which each aid is checked manually by a Coast Guard crew. Past research efforts to solve this problem have concluded that existing technology offers no economically feasible solution. However, the Automated Aids to Navigation Positioning System (AAPS) will be effective in repositioning aids more quickly and more accurately, regardless of how the discrepancy is discovered.

SENATOR ANDREWS: What segments of the marine community have the greatest need for improvements in short range aids to navigation? For example, do recreational boaters, commercial fishermen, and large commercial vessels have different needs for navigational improvements?

ANSWER: Each segment of the marine community does have different requirements for short range aids to navigation. The large commercial user has the greatest need for improvement. Generally speaking, the major waterways were designed and dredged for smaller, more maneuverable vessels. As a result, the margin for error has decreased as the size of the vessels has increased.

SENATOR ANDREWS: While improved signal lights would benefit all users, would electronic navigational devices be practical for commercial fishermen and recreational boaters?

ANSWER: Yes, they are practical and widely used by both segments. Loran is less widely used by recreational boaters, but recreational boaters are staunch advocates of radiobeacon signals which are used as a homing device. The numbers of users of electronic navigational devices from amongst commercial fishermen and recreational users are expected to continue to increase.

SENATOR ANDREWS: What agreements/commitments does the Coast Guard have to continue operating the LORAN-C system?

ANSWER: Nationally, LORAN-C is operated by the Coast Guard, as a military navigation system, for the Department of Defense. The present Federal Radionavigation Plan (FRP) requires a 15 year operational overlap with DOD's global positioning system (GPS). The longevity of LORAN-C is therefore tied to the implementation of GPS. Internationally, the only agreement for continued operation that exists is a memorandum of understanding that the Department of Transportation/U. S. Coast Guard has signed with Canada. The Canadian agreement is not time constrained and, therefore, any alterations to the agreement must be negotiated.

SENATOR ANDREWS: When is the earliest the system could be discontinued without violating these agreements?

ANSWER: Assuming that the Department of Defense (DOD) achieves its objective of an operational GPS in 1987, the Coast Guard is obligated to continuing LORAN-C operations until the year 2002 by the Federal Radionavigation Plan (FRP). The agreement with Canada is subject to negotiations. Since the U.S. has not obligated itself to provide LORAN-C service to any foreign user for any fixed duration, there would be no problem in turning off our overseas operations at any time, with DOD concurrence. The Federal

Radionavigation Plan currently states that overseas operation of LORAN-C by the Coast Guard will be terminated after 1992. This does not say that there is not a dependency upon LORAN-C for navigation overseas but rather that the U. S. has not made any long term commitments in that area.

SENATOR ANDREWS: How long does the Coast Guard expect to operate the LORAN-C system? When will the next decision be made regarding the future of LORAN-C?

ANSWER: In general, continued operation of LORAN-C is governed by the Federal Radionavigation Plan (FRP). The FRP currently states that overseas operation of LORAN-C by the Coast Guard will be terminated after 1992. The Department of Defense has determined that there will be no further need for overseas LORAN-C coverage after this date. The FRP has delineated a 15 year LORAN-C/GPS overlap period for operation of LORAN-C in the Coastal Confluence Zone. The FRP is scheduled to be reviewed again in 1987.

SENATOR ANDREWS: If the decision is made to discontinue LORAN-C and replace it with GPS, what costs would the user community incur? What is the estimated cost difference between a commercial LORAN-C receiver and an equivalent GPS receiver? Do users face any other costs from a transfer to another system?

ANSWER: The only direct cost to be incurred by the users of either system is that of receiver procurements. The cost of a receiver is dependent upon the intended application of the receiver (high accuracy versus low dynamic navigation) as well as when the receiver is purchased. System changes in the past (LORAN-A to LORAN-C) have demonstrated that user equipment prices drop dramatically as the system matures and more manufacturers begin to compete for a portion of the equipment market. GPS user equipment, for a system which is not yet operational, is averaging approximately $35,000 per receiver with the lowest known price at present being $10,000. Present estimates indicate user equipment costs will reduce to approximately $5,000 per receiver between now and the early 1990's. Technology advances and competition amongst manufacturers should further reduce receiver costs.

SENATOR ANDREWS: The FAA has been considering expanding LORAN-C to serve the mid-continent area. Has the Coast Guard been involved in these considerations? How much would a mid-continent chain cost to build and operate? Has the Coast Guard been involved in a cost-benefit study of the proposal?

ANSWER: The Coast Guard continues to work closely with the FAA to discuss the possible implementation of a mid-continent chain and to develop a memorandum of agreement. The cost to build and operate such a chain would depend heavily upon the size, number and type of transmitter stations that the FAA requires. Current estimates place construction costs at $32 to $50 million with annual recurring costs of $1 million. The number of stations that the FAA requires for its mid-continent chain depends upon the geographic area to be covered. The FAA is still developing its requirements. The Coast Guard has provided cost information to the FAA for its cost/benefit analysis.

SENATOR ANDREWS: What are the current Coast Guard costs of operating the various LORAN-C chains?

ANSWER: The total operating costs in FY 1983 for the 42 Loran stations was $33 million.

SENATOR ANDREWS: What will these costs be in the future, as the vacuum tube transmitters are replaced with solid state?

ANSWER: In those cases where tube-type transmitters are or will be replaced by solid state, it is estimated that operating costs will be reduced by approximately 25% as a result of reduced maintenance, reduced manning levels and remote operation.

MARINE SAFETY

SENATOR ANDREWS: In explaining the need for fire protection research, the budget justification states "the Coast Guard needs a better understanding of shipboard fires, firefighting equipment and techniques to properly fulfill its regulatory mission." A number of Industrialized nations maintain large merchant fleets or are leaders in shipbuilding. Don't they conduct similar regulatory programs?

ANSWER: It may be true that other industrial nations have regulatory programs that need fire protection research to fulfill their mission. However, to the best of our knowledge, the United States is the only country that actively pursues fire safety R&D to support its regulatory program. Many countries accept the Safety of Life at Sea (SOLAS) requirements without any research efforts to verify or support existing requirements and they do not have a mechanism to evaluate new problems caused by changes in ship design and operation. The work that is performed at the fire and safety test detachment in Mobile, Alabama is recognized worldwide. The United States sends copies of all its work to the International Maritime Organization (IMO) subcommittee on fire protection. Some of this work has in turn affected international regulations, as well as domestic requirements.

SENATOR ANDREWS: Is it possible to obtain the information needed for regulatory purposes from other countries? For example, isn't spontaneous combustion of coal a problem faced by many foreign ships?

ANSWER: We utilize information received from other countries wherever possible. Other countries submit research results to the International Maritime Organization (IMO) for information as does the United States. Prior to any research effort, we make sure that similar research has not already been done. However, it is our understanding that we are conducting the only research in this area. R&D in this area has incorporated technical support and prior research from the United Kingdom. Present information indicates that the spontaneous combustion of coal is a problem experienced only by ships carrying coal from the United States, most of which are foreign. This is especially true of coal leaving the New Orleans area.

SENATOR ANDREWS: Fire at sea could be an important concern for combat ships as well as commercial vessels. Has the Coast Guard reviewed DOD and Navy research on fire prevention? For example, for FY 1986, research is proposed on fire resistance of bulkhead penetrations. Has the Navy done anything in this area?

ANSWER: Fire at sea is a problem for both commercial vessels and combat ships. In the 1970'S we became aware of the Navy R&D work in the area of fire protection through a literature search. Since that time we have been closely tracking their work and adapting their findings to meet our needs as appropriate. Monitoring the Navy R&D effort is an important component of our program, and the Navy is working closely with the Coast Guard to augment the Mobile Fire and Safety Test Detachment by providing a Navy combat vessel.

The Navy will be tracking our work as they are interested in doing additional cable penetration research. The Coast Guard is keenly aware of the value of information exchange and has an informal advisory group for its Fire and Safety Test Detachment. The U.S. Navy is an active participant in this group and, as a result, we are able to build upon rather than duplicate their efforts.

EMERGENCY RESPONSE

SENATOR ANDREWS: Is the Coast Guard the only DOT element providing training to State and local personnel for dealing with emergency response to hazardous materials spills and leaks? Why does the Materials Transportation Bureau Publish the Emergency Response Guidebook, which we understand is the official Federal guide on how to deal with leaks and spills?

ANSWER: The Coast Guard is the only element that provides response training directly to State and local personnel. The Material Transportation Bureau (MTB) has produced training materials in cooperation with the National Fire Protection Association (NFPA). Coast Guard training programs are designed primarily for training Coast Guard personnel at the Marine Safety School (MSS) in Yorktown, Virginia. However state and local personnel participate on a limited basis in the hazardous chemical exercise drills held at field units and may participate on a "space available" basis at the MSS. This training is intended to enhance the coordination between federal, State, and local response personnel and is limited to those areas where Coast Guard acts as the On-Scene Coordinator (OSC) under the National Contingency Plan (NCP). The Material Transportation Bureau publishes the Emergency Response Guidebook (ERG) which is based on MTB's regulations for packaged chemicals and serves as one reference for initial response information. The ERG was primarily designed for use at hazardous materials incidents involving trucks or trains. It has application for incidents in other modes of transportation and at facilities such as terminals and warehouses. Another resource is the Coast Guard Chemical Hazards Response Information System (CHRIS) manual which primarily addresses chemicals shipped in bulk by water. The CHRIS manual gives detailed information on the chemical and physical properties of each chemical, methods of hazard assessment and response guidelines.

SENATOR ANDREWS: Is the Emergency Response Guidebook used in the Coast Guard's Courses?

ANSWER: The Emergency Response Guidebook is one of several chemical reference sources used in courses taught at Coast Guard Marine Safety School in Yorktown, Virginia.

SENATOR ANDREWS: In what ways does the Coast Guard cooperate with MTB on updating the guidebook?

ANSWER: The MTB sends a draft of the guidebook to the Coast Guard for review and comment prior to periodic reprinting.

SENATOR ANDREWS: The Research and Special Programs Administration has proposed the establishment of a Hazardous Materials Foundation because "All constituencies of the Federal Hazardous Materials Program agree there is a need for an improved emergency response program." Does the Coast Guard agree there is a need for an improved emergency response program? Does the Coast Guard also support the Foundation approach?

ANSWER: Improvements may be necessary in preparedness at state and local levels primarily in training availability. A National Response Team (NRT) survey of local and regional preparedness is part of an effort to identify deficiencies. The foundation approach may be one way to help fill gaps identified in the survey.

SENATOR ANDREWS: RSPA cited the need of State and local governments for "funds for sufficient training, information and guidance to properly plan for and respond to hazardous materials emergencies." They propose that the foundation raise $10 million for grants to States and cities to attend "Emergency response training programs currently existing both within Government and within the private sector." Has the Coast Guard developed plans for accommodating the increase in its course enrollments? What involvement has the Coast Guard had in planning the Foundation?

ANSWER: The foundation concept is currently in its early stages. The Coast Guard was not involved in its development. Currently Coast Guard courses at the Marine Safety School are open to other than Coast Guard personnel on a "space available" basis only. We have not developed plans to increase enrollments to deal with any increased state or local needs.

SENATOR ANDREWS: What is the Coast Guard policy on tuition charges to attendees of its emergency response courses?

ANSWER: The Coast Guard permits personnel from other government or civil agencies to attend its emergency response courses on a space available, not-to-interfere basis. There are no tuition charges. Most of these courses are taught at the Marine Safety School in Yorktown, Virginia. Approximately fifty non-Coast Guard personnel will attend such courses in Fiscal Year 86.

SENATOR ANDREWS: What is the overall cost to the Coast Guard of conducting its courses?

ANSWER: The cost to the Coast Guard of all emergency response courses taught at the Marine Safety School approaches $825,000. This cost includes student travel and per diem costs for Coast Guard students, school operating costs, instructor salary costs, and facility amortization. Approximately four-hundred Coast Guard personnel will attend emergency response training at Marine Safety School in Fiscal Year 86.

SENATOR ANDREWS: What research is done to improve emergency response techniques?

ANSWER: The Coast Guard is conducting research to improve emergency response techniques in the areas of identifying, mitigating, and containing released chemicals. Research is also being conducted on personnel protection equipment to enhance the safety of persons responding to a chemical release. Our research includes the development of response techniques for chemicals that dissolve, float, vaporize or sink in or on water; development of field instrumentation to identify and quantify chemical vapor concentration on scene; improvements to personal protection equipment which includes testing protective clothing materials for permeability by various chemicals; decontamination methods; protective clothing selection guidelines; and fully-encapsulated suits for use by the Coast Guard National Strike Force. This research is conducted in close coordination with the Environmental Protection Agency, the Federal Emergency Management Administration, and other agencies of the National Response Team, to give a broader application to our efforts.

SENATOR ANDREWS: Does the hazardous chemical pollution response program consider improving emergency response techniques on land as well as at sea?

ANSWER: The Coast Guard is the pre-designated Federal On-Scene Coordinator (OSC) in coastal areas and certain ports on inland rivers. Coast Guard jurisdiction includes both waters and nearby land areas by mutual agreement with Environmental Protection Agency. The Coast Guard program associated with chemical response deals with the broad spectrum of chemical releases including both land and water related incidents.

HAZARDOUS MATERIALS

SENATOR ANDREWS: Since the Coast Guard is responsible for all releases of hazardous chemicals used in commerce, how are resources allocated among research for releases by the various modes? How was this allocation decided on?

ANSWER: The Coast Guard is the pre-designated Federal On-Scene Coordinator for releases of hazardous substances in the coastal region and along sections of certain inland rivers, a responsibility delineated by geographic scope rather than by the nature of the chemical. This responsibility includes both land and marine incidents. The Coast Guard has funded Research and Development in areas that support response to hazardous chemical spills since 1974. Projects have been conducted jointly with the Environmental Protection Agency, the Federal Emergency Management Agency, the National Institute for Occupational Safety and Health, the National Oceanic and Atmospheric Administration, and other military services. The Coast Guard finds it necessary to concentrate research funding on problems associated with response to releases of hazardous substances into the marine environment, because the maritime emphasis is not adequately addressed by R&D programs in other agencies. In some cases, the technologies developed in this research are also applicable to releases on land, and there is coordination with affected agencies. In addition to direct coordination, multi-agency coordination is accomplished through multi-agency forums such as the National Response Team.

SENATOR ANDREWS: In order to protect Coast Guard and maritime industry personnel from exposure risks resulting from the routine carriage of chemical commodities, the Budget Justification proposes trial implementation of medical and environmental monitoring methods and techniques. Have the efforts of the Coast

Guard been coordinated with the Materials Transportation Bureau, which is responsible for the land and air movement of hazardous materals?

ANSWER: No. A research program sponsored by the Coast Guard's Office of Merchant Marine Safety, conducted by Southwest Research Institute, has been initiated to determine the exposure potential to chemical and petroleum products during work activities in the maritime workplace. This program centers around the transportation of bulk commodities in the marine mode not packaged hazardous materials. Because the Coast Guard has direct responsibility for the movement of bulk commodities in the marine mode and the scope of the program does not cover packaged hazardous materials, the research was not coordinated with the Materials Transportation Bureau. Our long-term objective is to develop an effective occupational health program for Coast Guard and maritime personnel involved in the monitoring and transportation of bulk commodities in the marine mode.

SENATOR ANDREWS: How does the Coast Guard - OSHA Memorandum of Understanding divide up responsibilities in the area?

ANSWER: The OSHA Memorandum of Understanding (MOU) with the Coast Guard states that the Coast Guard has primary authority over the working conditions of seamen (maritime personnel) aboard inspected vessels while other maritime activities (e.g.,shipyards, waterfront facilities) remain under the authority of OSHA. Under the vessel inspection laws of the United States, the Coast Guard has issued limited standards (asbestos, noise) and regulations affecting the occupational safety and health of personnel working in the maritime enviornment. Because information concerning potential adverse health exposures during maritime work activities is limited, the Coast Guard's Office of Merchant Marine Safety initiated the research program.

SENATOR ANDREWS: The Coast Guard is the only DOT element that offers emergency response training. How can emergency response be conducted effectively if "The magnitude and level of risk has not been documented by any government agency or the maritime industry?"

ANSWER: Coast Guard training programs offered at the Marine Safety School (MSS), Yorktown, Virginia, are designed principally for USCG personnel. However, state and local respresentatives may attend on a "space-available" basis. In addition, many references exist on hazards posed by chemicals. These are used by response personnel when assessing a spill. Effective emergency response is more dependent on organization than any other criteria. The national response mechanism embodied in the National Contingency Plan has proven an effective vehicle for dealing with incidents involving chemical releases. As a part of this mechanism,local contingency planning includes identification of hazardous substances transport patterns, facility locations, historical spill information, and identification of environmentally vulnerable areas. Local contingency plans also include action plans for chemicals most likely to be involved in accidents.

SENATOR ANDREWS: Is this program addressing the effects of long-term exposure to hazardous materials in the workplace or the dangers posed by one-time exposure to spills and leaks?

ANSWER: The program addresses both the effects of long-term exposures and the acute effects of one-time exposures. The primary emphasis of the studies is the long-term effects of low level exposures to chemical vapors. As a task element of our research program, a report will be delivered in August 1985 which will evaluate existing health data, define adverse occupational exposures, and recommend guidelines for developing maritime exposure standards.

SENATOR ANDREWS: If the former, has not OSHA or EPA evaluated the risks of these materials or if the latter, has not MTB or Coast Guard? If not how do these agencies perform their regulatory functions?

ANSWER: OSHA and the EPA have evaluated the inherent hazards of a significant number of the chemicals being transported in bulk; however, OSHA and EPA have not studied the specific health hazards associated with the transportation of chemicals in the marine mode. The maritime working environment is unique and complex. The potential for safety hazards from flammable and toxic substances in the work environment are inherent in maritime job activities. Hazardous substances include vapors, gases, liquids,mists, and dust. The sources of these substances may be encountered during both routine and nonroutine work situations. The potential for exposure to these substances varies with work functions, operational equipment and procedures. Work schedules in the maritime industry do not follow the normal eight hour day that is characteristic of other industries. Therefore, OSHA permissible exposure limits may not be applicable to the marine environment. The Coast Guard considers both long-term and short-term health hazards in determining safe transport requirements for bulk liquid chemicals. The Coast Guard has developed a standardized system for evaluating and classifying new chemicals for bulk shipment. This system uses extensive chemical commodity files, commercial reference material, and computerized data files from the National Institutes of Health. After identifying the hazards, the Coast Guard develops minimum design and operational standards for transport of these chemicals on ships and barges. Although MTB is responsible for regulations governing the intermodal shipment of hazardous materials, it does not evaluate and classify individual chemicals for bulk shipment by water.

SHIP STRUCTURE COMMITTEE

SENATOR ANDREWS: Why is funding for the Ship Structure Committee (SSC) in FY 1986 increased 50 percent from the FY 1985 level? ($200,000 to $300,000)

ANSWER: The funding increase is necessary to fund our part of a three-year, $600,000 project to provide critical information on ship slamming and pounding. This study will provide data previously non-existent on the effects of wave height on vessel performance and employ full-scale vessel testing. The results will greatly improve the field of knowledge for both design and casualty analysis in the marine mode. This action represents a significant addition to our program. We believe this study is necessary and consistent with the leadership role the SSC holds in the marine community. Finally, this increase in our funding level provides the impetus for other members to increase their funding.

SENATOR ANDREWS: Current levels of commercial shipbuilding and offshore drilling platform construction are depressed. Military construction appears to be the growth area. Since the Navy is well represented on the Ship Structure Committee, if any increase is needed, why isn't the Navy providing it?

ANSWER: It is not the quantity of units being produced by a segment of industry at any one time that provides the basis for the Ship Structure Committee's (SSC) programs. The continually advancing nature of the technology used in design and fabrication of vessels which must be more fully understood is the SSC focus. This is accomplished by developing research programs of interest and value to all the members, including the Navy. The SSC research programs usually impact commercial vessel design, construction, and safety, but all sectors benefit. As a result, funding increases borne solely by the Navy are not consistent with the programs of the SSC.

RECREATIONAL BOATING SAFETY

SENATOR ANDREWS: The Coast Guard is seeking to develop a new safe powering formula to support a rulemaking governing allowable propulsion horsepower on recreational boats. The "Benefits" section states that "there are 1200-1500 powering-related accidents per year." How many of these accidents are due to the boat having a more powerful propulsion system than is safe for the boat hull?

ANSWER: Based upon a study completed for the Coast Guard in September 1982 by Ideamatics, Inc., of Washington, DC, it is estimated that approximately 41% of these accidents are attributable to overpowering.

SENATOR ANDREWS: Would less powerful propulsion systems reduce accidents?

ANSWER: Yes. Although the objective of the safe powering formula revision is to provide a more accurate formula and not necessarily a more restrictive one, an improved method to calculate the horsepower rating for outboard motorboats would reduce the rating on boats now overrated by the present formula, thereby reducing accidents. In some cases the horsepower rating may actually be increased by the more accurate calculation on boats which the present formula underrates, but the boats would fall within the same limit of safety.

SENATOR ANDREWS: Is this a design problem or are people operating their boats at excessive speeds? Please elaborate.

ANSWER: Both. The operation of a boat at excessive speeds in an unsafe manner, as with automobiles, is always a problem and is not necessarily related to the power or design of the craft. However, the safe powering label required by the Coast Guard for outboard powered boats under 20 feet provides the boat owner with a guide for the selection of the motor to go on that boat. The thrust of the new safe powering formula is to bring design factors into consideration so that a well designed boat that can safely handle more power receives a higher rating, while a poor performer has the rating reduced.

SENATOR ANDREWS: Would boaters always be able to modify their engines to increase horsepower and circumvent the regulations?

ANSWER: Yes. The horsepower rating relates to outboard motorboats only and the boat owner can always install a larger size motor if he so chooses. The power rating on the boat provides the boat buyer with a guide for the appropriate safe power that that boat can handle. It is the desire of the Coast Guard to make this figure as accurate as feasible. The rating on the boat eliminates the possibility of the buyer getting an unsafe package without his knowledge.

SENATOR ANDREWS: What comments have you received from the boating community on these regulations?

ANSWER: Regulations addressing the overall safe powering issue have not been promulgated. Research is underway that will provide a basis to draft regulations. A subcommittee of the National Boating Safety Advisory Council is also addressing this subject. The recreational boating community generally is in favor of reevaluating the process of determining the horsepower capabilities of various boats.

SENATOR ANDREWS: Would reducing alcohol abuse be more effective at reducing boat impact accidents?

ANSWER: Reducing alcohol abuse would probably have a greater effect at reducing boat impact accidents than changes in the safe powering regulations. However, improvements in the safety of the boat certainly give the operator a better chance of avoiding or surviving an accident, and such improvements can be reasonably achieved.

SENATOR ANDREWS: What percentage of the powering related injuries cited also involved alcohol?

ANSWER: The data base indicates that alcohol was coded a contributing factor in only 5.8% of all reported powering related accidents. This low rate is attributable largely to shortcomings in the existing data collection system which substantially under-represents alcohol's role in all boating accidents. Initiatives with the National Association of State Boating Law Administrators to improve accident investigation, data collection and alcohol awareness should yield more realistic reporting of alcohol involvement.

MARINE ENVIRONMENTAL RESPONSE

SENATOR ANDREWS: Why is the request for Oil Pollution Response increased from $200,000 in FY 1985 to $300,000 in FY 1986?

ANSWER: The $200,000 in Research and Development funds for FY 1985 were budgeted for development of procedures and methods to improve response to oil spills in arctic regions. The FY 1986 budget provides $200,000 to continue this work, and also provides $100,000 to develop procedures and methods to improve effectiveness of response to offshore oil spills.

SENATOR ANDREWS: Please describe the damage and stability assessment system.

ANSWER: The damage and stability assessment system is a computer software program designed by the Coast Guard Office of Research and Development to be used in a commercially available portable personal computer. The software allows Coast Guard personnel at the scene of a vessel stranding/salvage to input vessel characteristics and damage factors into the portable computer to quickly ascertain the severity of the incident and the parameters for action. The software is derived from naval architecture and engineering theories and formulas which are time proven, but very lengthy to compute by hand. This technology will be useful to Coast Guard On-Scene Coordinators in determining the extent of salvage capability needed for a specific incident, as well as evaluating the actions taken by vessel owners once salvage operations begin.

ENFORCEMENT OF LAWS AND TREATIES

SENATOR ANDREWS: For FY 1986, $1,100 is requested for Shipboard Sensor System development. These infrared or low light level sensors would facilitate covert surveillance. While this is a worthwhile goal, will these projects provide visual surveillance at a sufficient range that the Coast Guard cutters would not be detected? For example, would engine noise alert suspects as to the presence of the Coast Guard at such a range that covert surveillance would not be productive?

ANSWER: The main purpose of the shipboard sensor system development is to provide our cutters with a night vision capability to improve night operations. Although covertness is useful, it is not the overriding requirement. The system will be designed to classify vessels at ranges of engine noise. It will enable cutters to identify suspicious vessels and observe on-board activity without having to come close and use searchlights. In addition to drug enforcement, the night vision sensor will also be useful for search and rescue activities, nighttime navigation, and defense readiness responsibilities.

COMMAND AND CONTROL SYSTEMS

SENATOR ANDREWS: Command and Control development has been undertaken by DOD. Is this Coast Guard effort primarily involved in developing software (i.e., logical models) unique to Coast Guard missions or does the effort involve informational processing systems which might be borrowed from DOD?

ANSWER: The analysis of Coast Guard missions to develop logical models of our activities is largely unique to our agency except where interoperability with other agencies is concerned. The logical models represent mission requirements specifications which, where appropriate, can be transformed to information system specifications. In implementation, any applicable technology available from DOD would be considered as an opportunity for obtaining system components. We will continue to monitor DOD efforts and utilize applicable information processing systems so as to reduce development costs and risks.

SENATOR ANDREWS: How are the Coast Guard's needs in this area unique compared to other services?

ANSWER: Our peacetime missions don't overlap significantly with DOD. The Coast Guard has a number of unique peacetime operational missions. These mission areas deal with boating safety, search and rescue, maintenance of aids to navigation, merchant marine safety, environmental protection, port safety, maritime law enforcement and ice operations.

LIGHTER-THAN-AIR

SENATOR ANDREWS: For FY 1986, the Coast Guard is requesting $1,200,000 for Lighter-Than-Air research. This represents nearly a 150 percent increase. Presumably, the airship appears promising to the Coast Guard. Please inform the Committee of the most recent findings (mission analysis completed in FY 1985) of the research program and the outlook for use of airships in Coast Guard missions. Will airships be able to provide benefits similar to the AEROSTAT or the Hawkeye E-2C in terms of radar coverage at a lower cost and/or longer duration?

ANSWER: The most recent findings in our Lighter-Than-Air (LTA) research are the results of the Patrol Airship Concept Evaluation (PACE) conducted by the Coast Guard and U.S. Navy. The final report, published in March 1985, concluded (for the Coast Guard) that airships were:

> excellent in visual searches for persons in the water, life rafts and other small objects in high probability search areas.
>
> very effective electronic sensor platforms.
>
> offer distinct advantages in several mission areas (Law Enforcement, Marine Safety Activities, Port Safety and Security, Search and Rescue, etc) but not without some disadvantages.

Airships will be able to provide radar coverage similar to the aerostat with the added ability to continue further in the interdiction process by intercepting and identifying the targets detected. The possibility exists for the airship to launch a boat and crew to board and inspect suspect craft. However, should the inspection result in information warranting seizure, a companion surface vessel will be required. Airships will be able to provide radar coverage similar to other existing airborne sensor platforms and maintain that coverage for much longer duration. Although cost estimates have not been calculated since 1979 (will be re-calculated in 1986/87), the cost of airship systems appears to be very favorable. The $1.2 million requested in FY 1986 is mostly the increment of funding needed to complete an operational evaluation. Future funding requests should be significantly less.

Technology advances since the departure of U. S. Navy blimps in 1960 have made the HELTA concept more appealing as a potential resource. Modern high-performance radars and other sensing devices are light enough to be carried aloft and operated for days/weeks at a time. Technology today enables the building of very light, yet powerful, engines coupled with ducted fans for vectored thrust giving airships incredible maneuverability and varying speed capabilities from hover to 100 kts. Advances in mooring facilities with designs similar to those used with tethered aerostats will reduce support personnel to three persons rather than the numbers of people everyone remembers seeing in the old films of blimps being recovered. The fabric materials used to make the helium envelope are much more durable and many times tougher than previous fabrics used. More importantly, the fabric is about 50% lighter than previously used fabrics. The difference in weight converts directly to additional payload capability for the airship. Moreover, these materials are able to withstand years of weather and ultraviolet rays without degradation doing away with the need for a hangar. Virtually all the other primary parts of an airship are componentized and can be quickly removed and taken to the appropriate place to be repaired when necessary. All of these technology improvements either enhances the performance or lower overall system costs of the Ligher-Than-Air concept. Cost comparison is going to be part of the evaluation.

SENATOR ANDREWS: Are the proposed mission computer simulations related to improved AEROSTAT use?

ANSWER: Mission computer simulations are no longer in our plans.

SENATOR ANDREWS: What is the total FY 1986 funding for airships, i.e., research, operations, etc?

ANSWER: The total FY 1986 Coast Guard funding for airships is $1.2 million and is solely for Research, Development, Testing and Evaluation.

SENATOR ANDREWS: Are the Coast Guard research results and activities coordinated with other agencies with an interest in airships and law enforcement missions for which they are suited?

ANSWER: We are actively cooperating with the U. S. Navy for operational matters as well as the U.S. Customs for law enforcement evaluations. We are also cooperating with NOAA and the Navy for research where airships have unique value in scientific experiments.

SENATOR ANDREWS: Does the Coast Guard receive reports from other airships users?

ANSWER: The only true "users" in the world are commercial ventures in advertising (Goodyear and FUJI) and, in the near future, in passenger transportation. Their equipment, facilities and operations have little value for our completely different mission requirements, yet we are keeping abreast of their developments. Future planned efforts by the Navy, Air Force, U. S. Forest Service, and Customs Service are known and will be followed.

WPB CAPABILITY REPLACEMENT ACQUISITION

SENATOR ANDREWS: $2,600 is requested for FY 1986 to continue performing activities leading to Key Decision 2 (select concepts for demonstration/validation). When will Key Decision 2 be made? The budget justificaion states the Coast Guard "must replace the important mission capabilities of aging patrol boat classes (WPB) beginning no later than FY 1990." What decision points remain after Key Decision 2? When are they scheduled?

ANSWER: The WPB acquisition paper is presently under review by the Office of the Secretary of Transportation. It contains our plan to potentially acquire three different types of vessels to meet our spectrum of WPB needs. Two of these are conventional craft: a larger, high-speed craft and a smaller, short endurance craft. The major portion of RDT&E funds are required for the third type of vessel: an advanced design craft capable of meeting our most demanding operating environments. Key Decision 2 for this craft should occur in mid-FY87. Key Decision 3 (full-scale development and limited production) is scheduled for mid-FY89, while Key Decision 4 (full production) should occur in FY93.

SENATOR ANDREWS: Do you estimate any difficulty in replacing the patrol boats beginning in 1990?

ANSWER: Given Office of the Secretary of Transportation approval of our acquisition paper in the near future, and provided we have the necessary funds, we do not foresee any difficulty to begin procuring replacement WPB's in 1990.

SENATOR ANDREWS: Including FY 1986, $6,850,000 will have been spent in research for the patrol boat capability replacement efforts. What will the total acquisition support cost be?

ANSWER: Total RDT&E funding for this project is presently estimated at $22.2 million.

ADVANCED MARINE VEHICLES

SENATOR ANDREWS: This project has as its objective gaining understanding of Advanced Marine Vehicles (AMV) technologies to support vessel acquisition decisions. Does this activity also support the WPB (patrol boat) capability replacement acquisition? How do the two efforts relate?

ANSWER: There are numerous AMV project activities that have contributed to the WPB replacement effort. In general, the AMV project develops the Coast Guard's tools and the technology base in the areas of mission analysis, test and evaluation of existing full-scale vehicles, and experimental and analytical hydrodynamic studies to support all marine vessel acquisition programs. Project elements which have directly contributed to the WPB acquisition include:

> Notional and refined feasibility designs of WPB hulls of the following vessel types: hydrofoil, Surface Effect Ship (SES), planing, and conventional displacement
>
> Technical Evaluations of the following vessel types: Small Waterplane Area Twin Hull (SWATH), SES, hydrofoil and current WPB's. A planing hull evaluation is scheduled for this fiscal year.
>
> Operational Evaluations of SES and Hydrofoil.
>
> Ongoing efforts to model mission effectiveness via operations research methods for the various candidate hulls.

SENATOR ANDREWS: Research is being planned for cutters, buoytenders, and motor lifeboats. What potential does the Coast Guard believe the Advanced Marine Vehicles have for performing the missions of these types of vessels?

ANSWER: Advanced Marine Vehicle concepts appear to be very competitive for the cutter and buoytender missions. Specifically, the Small Waterplane Area Twin-Hull (SWATH) and Surface Effect Ship (SES) concepts have potential for both missions, and the Planing and Hydrofoil designs provide reasonable alternatives for some categories of cutter missions. Motor lifeboat applications may be limited to the traditional hull form because of the nature of operations in the surf (i.e., shallow water, frequent bottom contact and the need for a self-righting capability).

SURFACE EFFECT SHIPS (SES)

SENATOR ANDREWS: What conclusions were reached about the SES-200 (160 foot vessel) which was operationally tested through late 1984 and early 1985? For what Coast Guard missions was this vessel found most appropriate? When might a procurement decision be forthcoming?

ANSWER: Conclusions reached during the SES-200 Operational Evaluation (OPEVAL) were that it had improved seakeeping, greater range and a larger internal volume (usable space) compared to our 110 foot WSESs. Its crew requirements and mission capabilities are the same as the WSES. These attributes make the vessel especially well suited for missions involving patrols with long periods between reprovisioning opportunities, where a great deal of on-station time would be lost in transit to and from the patrol site. The information gained from the OPEVAL will become part of the Advanced Marine Vehicle data base used to support future cutter acquisition such as the upcoming WPB procurement. Departmental approval of Key Decision Point One of the WPB Acquisition Project is pending.

SELECT PROJECT RESEARCH AND DEVELOPMENT

SENATOR ANDREWS: We understand the need to pursue quick response research and development projects in a shorter time frame than the budget allows. The best justification for such projects is past performance. The brief description for FY 1985 accomplishments does not explain why these projects were selected for "quick response". Could you provide for the record why these projects were selected and a brief description of each?

ANSWER: FY 1985 accomplishments:

1. Assess technology advances in command, control, and communications (C^3)/information resource management (IRM).

a. Description: Identify the C^3/IRM technologies to be addressed, forecast their progress, assess their effect on the Coast Guard, recommend the best approach for the Coast Guard, and develop prototypes with existing subsystems in high benefit areas.

b. Selection criteria: This project was selected for quick response because technology is advancing very rapidly in this area, making long range planning difficult if not impractical. Rather than proposing a full-scale research project in our budget request, this small, pilot effort will quickly determine the feasibility and appropriateness of several promising technical approaches. In a short time, we will have information needed to identify approaches with the greatest potential for solving Coast Guard problems.

2. Recreational boating fuel tank permeability and flotation foam degradation.

a. Description: These are quick studies of safety problems with significant implications. We had to determine whether existing fuel tanks and flotation foams were safe.

b. Selection criteria: Because of safety implications, we could not delay this research to await funding through the normal budget cycle.

3. Forecast technological advances and assess impact on Coast Guard missions (e.g., automated data processing, communications).

a. Description: Prepare a reference document for use by R&D personnel and program managers; a concise summary of the theory of operation, advantages, disadvantages, limitations, future trends, etc., of currently available (or soon to be available) technologies.

b. Selection criteria: This work was selected for quick response for the same reasons as the C^3/IRM project described above. Automated data processing, communications, electronics, and information technologies are advancing rapidly. Small pilot efforts will quickly distinguish the approaches with potential merit from those with unacceptable risk, cost, or marginal payoff.

4. Investigate time sensitive, short term, and high payoff research opportunities.

a. Description: Current example is the select project to modify Aerostat software to correct errors, make it easier to use, and improve its error detection and recovery.

b. Selection criteria: The Aerostat system had an abbreviated research, development, test and evaluation phase, and is entering its operational deployment phase. The software in use by Aerostat for data collection and display was developed quickly for test and evaluation purposes with little consideration for efficient or standard operational procedures. This project has expedited development of Aerostat data collection/display to keep pace with plans for operational deployment.

SENATOR ANDREWS: Why is this program growing so rapidly (1983 - $100,000, 1984 - $400,000, 1985 - $600,000, 1986 -$800,000), an eight-fold increase in four years? Is the Coast Guard having greater difficulty predicting its research needs?

ANSWER: The growth is a result of a concerted effort to improve our ability to respond to short term research opportunities that arise outside of the normal planning process and to urgent needs of Program Managers. We have found Coast Guard R&D to be increasingly effective with the flexibility and timeliness that select project research affords.

THIRD PARTY INSPECTIONS

SENATOR ANDREWS: How have third party inspection agreements with the American Bureau of Shipping (ABS) and the National Cargo Bureau (NCB) been working?

ANSWER: The third party inspections agreements with the American Bureau of Shipping (ABS) and the National Cargo Bureau (NCB) have been working well.

SENATOR ANDREWS: What is the relationship between these inspections and the collection of user fees for inspections?

ANSWER: There is no direct relationship between delegated inspections and user fees. However, imposing user fees may diminish the incentive to request Coast Guard inspection rather than ABS and NCB because of costs involved. The work performed by ABS and NCB on behalf of the Coast Guard is the type of work that these agencies normally perform for purposes other than regulatory. Both ABS and NCB will continue to perform these inspections regardless of Coast Guard user fees, and we will continue to accept their work in certain areas where inspection functions overlap.

SENATOR ANDREWS: Does the Coast Guard believe ABS and NCB do an adequate job? What processes are in place to monitor the activities of ABS and NCB?

ANSWER: Yes, the Coast Guard believes the American Bureau of Shipping (ABS) and the National Cargo Bureau (NCB) do an adequate job. Both have been delegated certain inspection, admeasurement, loadline, cargo gear certification, hazardous material regulation enforcement and grain loading responsibilities. Formal oversight programs for inspection and admeasurement functions delegated to ABS have been established. Under these programs, approximately 19% of the workload conducted by ABS is spot checked by the Coast Guard. An oversight program for loadline functions delegated to ABS and other authorized assigning authorities is currently being implemented. Under this new program, approximately 10% of the workload will be spot checked by the Coast Guard. Oversight of NCB is currently conducted through an informal program of spot checks when Coast Guard personnel board ships for navigation safety, pollution prevention, or other examinations and through NCB's participation in our Ship Coordinating Committee meetings.

SENATOR ANDREWS: To what extent have these agreements reduced Coast Guard resources?

ANSWER: It is estimated that the agreements with the American Bureau of Shipping (ABS) and the National Cargo Bureau (NCB), have resulted in resource savings of less than 10%. Accurate figures are difficult to obtain because of the evolutionary nature of our delegations and the depressed state of shipbuilding in recent years. Delegations have not been static. Delegations to inspection agencies have been under constant review and have been expanded as a result of that process. In addition, the Coast Guard has developed a formal oversight program which requires resources.

ALTERATION OF BRIDGES

SENATOR ANDREWS: The budget requests $5.2 million for altering the Willamette River Bridge. The cost/benefit ratio for this bridge has been estimated at 1.01 for the last two budget cycles. We understand that the Coast Guard has recently recalculated this ratio. Please explain, and outline Coast Guard intentions for this bridge alteration project.

ANSWER: The Coast Guard audited the Report of Obstructiveness for this bridge because of questions raised about the navigation benefits calculations which had resulted in the original benefit/cost estimate of 1.01. The audit revealed mathematical errors, as well as an overestimation of the number of vessels affected by transit time savings and delay savings. Correction of the errors showed a benefit/cost ratio of 0.83. A recalculation based on the 1984 operating costs of vessels and construction costs gave a benefit/cost ratio of 0.80. The Coast Guard has already completed the design and environmental review phases of the alteration project until conditions change and reliable information is available to produce an appropriate benefit/cost ratio for proceeding.

AIDS TO NAVIGATION

SENATOR ANDREWS: Funds are requested for a 19 person aids to navigation facility in Demopolis, Alabama, as well as $2.7 million in waterway aids, and $1.3 million for solar powered minor aids. Will any of these activities be impacted by increased contracting out of aid to navigation maintenance?

ANSWER: No, increased contracting of aid maintenance will not affect these items.

RETIRED PAY

SENATOR ANDREWS: The FY 1986 request of $340.5 million assumes $11.3 million associated with a 4.8 percent COLA effective January 1, 1986. Provide a current estimate of savings in this account in the event legislation is enacted along the lines of the so-called Rosegarden Agreement providing for a 2 percent COLA. Indicate any adjustment made for average personnel assumptions.

ANSWER: A COLA reduction from the assumed 4.8% to 2.0% would result in a cost savings of $6.7 million. Savings related to average personnel gains would be $1.1 million for the lower cost-of-living adjustment.

SENATOR ANDREWS: Why does the estimate of obligated balances at the end of FY 1985 increase $30 million?

ANSWER: Beginning with December 1984 entitlements, the payment date was changed from the last day of the month to the first day of the following month. As a result, the disbursement for September 1985 will be reflected in October 1985. The effect of the one day slippage moves the outlays into the next fiscal year.

SENATOR ANDREWS: Why are no "Survivor Benefit Deductions" shown, as in past years?

ANSWER: The Office of Management and Budget's automation of the Program by Activity section of the Congressional budget did not allow for negative amounts. As a result the Survivor Benefit Deductions and Survivor Benefit Payments were consolidated into the Survivor Benefit program which reflects the net funding requirement.

SENATOR ANDREWS: The actual FY 1984 obligations for regular military personnel were $274.7 million. Down from last year's estimate of $285.7 million and the original budget request of $296.0 million. Since the FY 1985 estimate is revised downward also, isn't the FY 1986 estimate of $309.1 million likely to be higher than necessary? If not, why?

ANSWER: No, becuase there are a number of factors that influence the total obligations; the number of additions and deletions to the rolls, the average pay and time in service at retirement, and the Cost of Living Allowance (COLA) applied. In FY 1984, both the additions and deletions to the rolls did not meet the projections. The FY 1986 estimate for regular military personnel is based on the FY 1985 revised requirement and projected changes to the rolls. The current FY 1985 execution is on track with the estimate.

SENATOR ANDREWS: The budget assumed last year an average 1984 retirement of 362. This year's estimate is 479. Will that level be attained, based on levels so far this fiscal year?

ANSWER: Average retirements this fiscal year (through March

31, 1985) are higher than during the same period in fiscal year 1984. Although the retirement rate is variable, year-to-date figures support the conclusions that this year's estimate of 479 will be attained.

RESERVE TRAINING

SENATOR ANDREWS: The estimates for FY 1985 direct Reserve Training Program obligations have increased over the amount requested in last year's justification. These increases are partially offset by the proposed recission of $441,000. Explain the net FY 1985 and 1986 increases for training facility operation and maintenance and administration obligations.

ANSWER: The bulk of the proposed $441,000 recission will not be an offset to facility operation and maintenance and administration. Most of the offset will be in initial and continuing training where the heavy travel costs are incurred. The changes in operations and maintenance and administration for FY 1985 are cost of living, follow-on for the DC/ORD building at RTC Yorktown, annualization of the FY 1984 pay raise, and Selected Reserve growth. For FY 1986, the changes include cost of living, Selected Reserve growth follow-on, follow-on for Canfield Hall at RTC Yorktown, and FY 1985 pay raise.

SENATOR ANDREWS: Actual FY 1984 days of initial training (67,200) were down over 36 percent from the estimate provided in last year's justification. Explain this decrease, as well as the decrease of 15,000 days in FY 1985. Why do Selected Reserve active duty training days decrease in FY 1986 by 5,000 days?

ANSWER: The 36 percent decrease in actual FY 1984 initial training days from the estimate provided in last year's justification was a result of our reducing the non-prior service goal to offset absorption of 61% of the FY 1984 pay raise and an inability to meet certain categories of the remaining goal. The decrease of 15,000 initial training days in the FY 1985 estimate is a result of a revised projection based on less than expected accessions in FY 1984 of reservists whose initial training carried over into FY 1985. The Selected Reserve active duty training days decreased by 5,000 days in FY 1986 because programmed recruit input increases the number of reservists performing initial training. This increase in the number of reservists undergoing initial training reduces the number of reservists performing continuing training (drills and active duty for training) resulting in a decreased number of continuing training days.

SENATOR ANDREWS: Will the Coast Guard realize the Selected Reserve strength of 12,500 this fiscal year as contemplated? If not, please explain.

ANSWER: Yes. We expect to achieve the 12,500 Selected Reserve strength before the end of FY 1985.

DISTRICT STAFFING

SENATOR ANDREWS: Provide a FY 1983 - 1986 comparison of Coast Guard Military personnel for each district.

ANSWER:

COAST GUARD AUTHORIZED ACTIVE DUTY MILITARY PERSONNEL BILLETS BY DISTRICT

COAST GUARD DISTRICT	FY-83	FY-84	FY-85	FY-86
CCGD1	2,879	2,790	2,620	2,800
CCGD2	850	849	838	828
CCGD3	3,143	3,145	3,103	3,032
CCGD5	2,799	3,131	3,109	2,786
CCGD7	3,430	3,464	3,552	3,699
CCGD8	2,941	2,942	2,818	2,788
CCGD9	2,117	2,129	2,086	1,929
CCGD11	1,086	1,117	894	886
CCGD12	2,174	2,176	2,116	1,973
CCGD13	2,466	2,476	2,587	2,559
CCGD14	1,346	1,350	1,342	1,328
CCGD17	1,944	1,985	1,972	1,952
TOTAL	27,175	26,554	27,037	26,560

NOTE: Above figures do not include any reserves, Headquarters, or Headquarters unit's active duty billets.

QUESTIONS SUBMITTED BY SENATOR D'AMATO

DRUG INTERDICTION EFFORT

SENATOR D'AMATO: Please tell this committee how many Coast Guard ships and personnel are now part of the Drug Interdiction effort, first in New York, and then nationwide.

ANSWER: Vessels homeported in the New York area involved in Drug Interdiction activities include two high endurance cutters and one medium endurance cutter at New York, two medium endurance cutters at New London, Connecticut; and one medium endurance cutter at Cape May, New Jersey. One medium endurance cutter will be relocated to New England by the end of fiscal year 1985.

In addition there are numerous patrol boats stationed in the New York area which conduct coastal law enforcement patrols. This includes three in N.Y., one in Connecticut, and four in N.J. One 95' WPB was decommissioned in March, 1985 due to structural failure.

Other vessels on the East Coast include seven high endurance cutters, twenty medium endurance cutters, three surface effect ships, thirty-seven patrol boats and one Aerostat detachment.

In Alaska, Hawaii, and on the West Coast there are eight high endurance cutters, seven medium endurance cutters, and thirty patrol boats employed in law enforcement missions.

SENATOR D'AMATO: How would those numbers be affected by the 1986 budget request?

ANSWER: By the end of 1986, as a result of major acquisitions, renovation projects and associated decommissionings, there will be a total of ten high endurance cutters, thirty-one medium endurance cutters, three surface effect ships, eighty-two patrol boats and two Aerostat detachments performing law enforcement missions.

NEW YORK AREA RESOURCES

SENATOR D'AMATO: Please furnish this committee, in writing, a breakdown, by location, of the number of ships and personnel, in FY 1982 through 1986 (as proposed by the budget request), and the level of spending, in New York, and nationwide.

ANSWER: All Coast Guard cutters are able to perform a variety of missions, but the ones most involved in the drug interdiction effort are high endurance cutters (WHEC), medium endurance cutters (WMEC) and patrol boats (WPB). Table A (below) shows cutters, and their personnel, which are located in the New York area. Table B shows the distribution of these cutters nationwide, by Coast Guard district.

TABLE A

Cutters/Personnel in New York Area (FY 1984)
(Third Coast Guard District)

CUTTER	PERSONNEL	LOCATION
DALLAS (WHEC)	154	NEW YORK, NY
GALLATIN (WHEC)	154	NEW YORK, NY
ALERT (WMEC)	71	CAPE MAY, NJ
VIGOROUS (WMEC)	70	NEW LONDON, CT
TAMAROA (WMEC)	77	NEW YORK, NY
EVERGREEN (WMEC)	54	NEW LONDON, CT
CAPE FAIRWEATHER (WPB)	14	NEW LONDON, CT
CAPE STARR (WPB)	14	ATLANTIC CITY, NJ
CAPE HORN (WPB)	14	FORT TILDEN, NY
POINT BATAN (WPB)	10	POINT PLEASANT BEACH, NJ
POINT FRANCIS (WPB)	10	SANDY HOOK, NJ
POINT FRANKLIN (WPB)	10	CAPE MAY, NJ
POINT HERRON (WPB)	10	FIRE ISLAND, NY
POINT KNOLL (WPB)	10	NEW LONDON, CT
POINT WELLS (WPB)	10	MONTAUK, NY

TABLE B

Major Coast Guard Cutters (WHEC/WMEC/WPB) Nationwide:

	As of Beginning of FY				
	1982	1983	1984	1985 (est)	1986 (est)
DISTRICT					
FIRST (ME, MA, NH, RI)					
Cutters	5/3/7	5/2/7	5/2/7	5/1/7	3/2/7
Personnel*	1062	1062	1062	1062	684
Spending** ($000)	$30747	$30230	$29230	$28500	$17500
THIRD (NY, NJ, CT, DE)					
Cutters	2/4/9	2/4/9	2/4/9	2/4/9	2/3/8
Personnel*	690	690	690	690	616
Spending** ($000)	$17837	$21041	$16907	$17500	$16000
FIFTH (MD, VA, NC)					
Cutters	2/3/5	2/4/5	2/6/5	2/6/5	2/6/5
Personnel*	568	638	778	778	778
Spending** ($000)	$14036	$18422	$21743	$19500	$17500
SEVENTH (SC, FL, GA)					
Cutters	0/7/15	0/9/15	0/9/15	0/9/15	0/9/17
Personnel*	686	826	826	826	888
Spending** ($000)	$19459	$27814	$26197	$27000	$28000
EIGHTH (AL, MI, LA, TX)					
Cutters	0/4/10	0/4/10	0/4/10	0/4/10	0/4/10
Personnel*	380	380	380	380	380
Spending** ($000)	$12665	$12252	$11923	$12500	$12500
ELEVENTH (S. CA)					
Cutters	0/1/9	0/1/9	0/1/9	0/1/9	0/1/9
Personnel*	160	160	160	160	160
Spending** ($000)	$4818	$5280	$4884	$5000	$5000
TWELFTH (N. CA)					
Cutters	4/1/8	4/1/8	4/1/8	4/1/8	4/1/8
Personnel*	783	783	783	783	783
Spending** ($000)	$20936	$24695	$22673	$23000	$23000

DISTRICT	As of Beginning of FY 1982	1983	1984	1985 (est)	1986 (est)
THIRTEENTH (OR, WA)					
Cutters	3/3/5	2/3/5	2/3/5	2/3/5	2/3/5
Personnel*	722	568	568	568	568
Spending** ($000)	$19102	$17348	$19386	$17500	$13500
FOURTEENTH (HI)					
Cutters	2/0/4	2/0/4	2/0/4	2/0/4	2/0/4
Personnel*	363	363	363	363	363
Spending** ($000)	$10477	$12517	$12163	$12500	$12500
SEVENTEENTH (AK)					
Cutters	0/2/4	0/2/4	0/2/4	0/2/4	0/2/4
Personnel*	197	197	197	197	197
Spending** ($000)	$6799	$7280	$7223	$7000	$7000

* Personnel figures based on average of WHEC=154, WMEC=70, and WPB=ACTUAL (VARIOUS)

** Spending totals for entire fiscal year

COAST GUARD ATLANTIC AREA DRUG SEIZURES

SENATOR D'AMATO: How many drug seizures did the Coast Guard make north of Florida and particularly in the New York area in .974?

ANSWER: See the following table.

FISCAL YEAR 1984 DRUG SEIZURES IN THE ATLANTIC NORTH OF FLORIDA (31-00 degrees North Latitude) WITH U.S. COAST GUARD INVOLVEMENT:

	TOTAL	NY (THIRD CG DISTRICT)
CASES	19	4
VESSELS SEIZED	18	4
ARRESTS	132	35
MARIJUANA LBS SEIZED	378,454	105,176
HASHISH LBS SEIZED	29,961	29,961

FISCAL YEAR 1984 COAST GUARD DRUG SEIZURES IN NEW YORK AREA:

Date	Vessel	MJ #	Hash #	No. Arrests
11/2/83	HETTY	0	29,961	4
12/9/83	ADINA*	50,000	0	17
5/1/84	IDA II	47,000	0	11
9/25/84	MARGIE	8,175	0	3
TOTALS:		105,176	29,961	35

* The cargo aboard the ADINA was jettisoned at sea, 700 pounds recovered by the CG cutter.

COAST GUARD TACTICAL LAW ENFORCEMENT TEAM (TACLET)

SENATOR D'AMATO: What is your experience with the TACLET program?

ANSWER: The Coast Guard is very pleased with the performance of Tactical Law Enforcement Teams (TACLET's). The concept of fielding a wide mix of professional capabilities, including intelligence specialists, search experts, defensive tactics specialists, special agents and others, all under the leadership of an experienced law enforcement officer, has proven a success. They have provided a wide range of enhanced law enforcement capability, from training Navy P-3 aircrews in how to identify profile drug smuggling vessels, to deploying as boarding parties on U. S. Navy vessels, as well as providing critical law enforcement training to Coast Guard shore stations and floating units. TACLET's are the key to the effective use of Navy ships. Since their inception, TACLET's have made 18 drug seizures from Navy ships.

SENATOR D'AMATO: Does the 1986 budget request increase or decrease your budget for that program?

ANSWER: There is no change in the FY 1986 budget from our current level of effort in the TACLET program.

SENATOR D'AMATO: I have heard that we are not getting full use out of the aerostat radar balloons because we are not assigning sufficient personnel to operate them. What additional personnel should we be assigning to that to increase its productivity?

ANSWER: During the test, evaluation and early deployment of lease aerostat #1 we operated the system with a "temporary duty" on-board crew of seven Coast Guard personnel. Our experience has shown that to get full benefit of the aerostat radar and communications/data link capability an on-board crew of twelve would be required. Note that two crews are necessary for each aerostat system (due to training, leave, and crew relief requirements).

The FY 1986 budget contains 14 military billets to operate leased aerostat #2 (two 6-person crews plus 2-person general detail), and 43 military billets to operate procured aerostats #3, 4 and 5 (two 6-person crews for each aerostat plus 2-person general detail). An additional 87 military billets would be required to achieve maximum utilization and effectiveness of the five aerostat systems.

Note: General Detail are additional personnel required to provide replacements for leave, illness, training, etc.

NIGHTTIME DETECTION SYSTEMS

SENATOR D'AMATO: How may Coast Guard units do you plan to equip with nighttime detection systems? Of that number, how many does the budget provide for? At this rate, when will the entire fleet be adequately equipped?

ANSWER: Since the Coast Guard began its procurement process for hand-held Night-Vision Scopes (NVS) in September 1981, over 275 NVS's have been purchased. None of these are provided for in the FY

1986 budget. Only those units with a law enforcement mission have been outfitted with NVS's. Currently the units assigned NVS's are:

UNIT TYPE	# OF UNITS RECEIVING	PROPORTION	DATE OF PROCUREMENT
HIGH ENDURANCE CUTTERS	12	ALL	SEPT 82
MEDIUM ENDURANCE CUTTERS (270 foot)	1	CGC BEAR*	SEPT 81
MEDIUM ENDURANCE CUTTERS (210 foot)	16	ALL	SEPT 81
MEDIUM ENDURANCE CUTTERS (OTHER)	12	ALL	SEPT 81
ICEBREAKING TUGS	6	88%	SEPT 82
PATROL BOATS (95s & 82s)	75	ALL	SEPT 81
SURFACE EFFECT SHIPS	3	ALL	SEPT 82
AIR STATIONS	21	88%	"
BASES	22	87%	"
1ST DISTRICT STA	19	ALL	"
3RD DISTRICT STA	23	ALL	"
5TH DISTRICT STA	20	ALL	"
7TH DISTRICT STA	16	ALL	"
8TH DISTRICT STA	11	ALL	"
9TH DISTRICT STA	2	14%	"
11TH DISTRICT STA	1	ALL	"
12TH DISTRICT STA	3	50%	"
13TH DISTRICT STA	13	93%	"
14TH DISTRICT STA	1	ALL	"
17TH DISTRICT STA	1	ALL	"
TOTAL	279		

*Note: WMEC 270' foot cutters now equipped with permanent Night-Vision System

COAST GUARD SPECIAL OPERATIONS

SENATOR D'AMATO: Last year, the Coast Guard participated with the Colombians in a very successful drug interdiction effort known as Operation Wagonwheel. More recently, you cooperated, and again very successfully, with the Bahamas in Operation Blue Lightening. Can you summarize the results of those programs, tell us what impact they had on your budget, and whether this budget request provides for repeating such programs in fiscal year 1986.

ANSWER: Conducted during November and December 1984, Wagonwheel was the largest maritime drug enforcement effort ever, and was designed to disrupt and interdict the fall harvest of South American marijuana. Wagonwheel was part of Hat Trick, a larger operation coordinated by the National Narcotics Border Interdiction System (NNBIS) involving other U.S. law enforcement agencies. The operation was a major success. Wagonwheel forces seized 37 vessels and 169 tons of marijuana; three other vessels were forced into Mexican waters by Coast Guard cutters, where they and their 32 tons of marijuana were seized by Mexican naval units. More importantly, as the Wagonwheel squadron deployed close to the Colombian coast, it effectively sealed off the sea lanes traditionally used by maritime smugglers and accomplished the main objective of the operation: disruption of the smugglers' normal activity during the prime shipping season. Smugglers were forced to stockpile their crop or seek alternate, less efficient and more costly methods of moving their product. Because of stockpiling, Colombian armed forces and police were able to destroy some 300 tons of marijuana in special land operations planned to capicalize on the anticipated impact of Wagonwheel. An increase in air smuggling and a rise in the street price of marijuana in some parts of the U.S. were other indicators of our success. There were reports from Colombia that maritime interdiction, in-country stockpile destruction, and the U.S. supported Colombian eradication program eliminated as much as 50% of the fall harvest. Maritime trafficking has remained uncharacteristically low thus far in 1985, apparently showing the operation's long term effects on the smuggling organizations. Finally, this operation demonstrated the success that can be gained from international cooperation on a mutual problem.

Operation Blue Lightening was a coordinated law enforcement effort between the Government of the Bahamas and the United States conducted from April 3 - 19, 1985. The operation was coordinated by the Southeast Region of the National Narcotics Border Interdiction System and involved 26 Federal, state and local agencies of both governments. The goal of the operation was three-fold: (1) to disrupt the primary maritime smuggling routes through the Bahamas, (2) to destroy cached contraband and facilities on various islands throughout the Bahamas, and (3) to intercept those smugglers approaching the Florida coast who had been "flushed out" by the pressure being applied in the Bahamas. The operation resulted in the seizure of 26 vessels, 18 tons of marijuana, 5500 pounds of cocaine, $1.5 million in assets, and the arrest of 57 people.

Special operations such as Blue Lightening and Wagonwheel are not specifically funded within the budget. They are conducted within existing resources. Drug smuggling is a dynamic business; threat assessments and strategic situations determine if such special operations are the best utilization of resources. Of course, when we conduct such special operations, we must do so at the expense of other law enforcement efforts or mission areas, and there is some post-operation recovery time for crew rest and deferred maintenance. Nevertheless, these two successful operations we've conducted in the last six months have been a most productive use of our law enforcement budget.

SENATOR D'AMATO: Can you explain to this committee the advantages of providing double or augmented crews for Coast Guard patrol boats (for example, providing 3 crews for 2 boats).

ANSWER: Augmented or multiple crewed cutters can provide up to 50 per cent more underway time per vessel over a single crewed patrol boat of the same class. The exact figure will vary with the number and qualification of maintenance and support personnel available both aboard and ashore.

SENATOR D'AMATO: Does this budget request provide for this? To what extent?

ANSWER: Yes, this budget request will continue to multiple crew the surface effect ship division in Key West, Florida, and two 95-foot patrol boats in Miami, Florida.

QUESTIONS SUBMITTED BY SENATOR CHILES

SENATOR CHILES: The budget process proposes 38,259 military positions and 38,220 full time equivalents in FY 1986. The Coast Guard authorization established a full time equivalent floor of 39,150. Is this shortfall the reasons for the requested bill language limiting funds for military compensation? What amount is necessary to fully fund the authorized personnel level? Why hasn't the Department addressed this funding requirement in a reprogramming request, as directed for the Senate report?

ANSWER: Yes, the personnel shortfall is the reason for requesting limited funding. $773,800,000 in the Operating Expenses appropriation will fund compensation for 36,543 military full-time equivalents (FTEs) of our budget total 38,220 FTEs and is consistent with our overall appropriation levels. The remaining FTEs will be funded from our other appropriations or on a reimbursable basis by other agencies.

To reach the floor (39,150 plus 157 Public Health Service officers) would require 1,087 more FTE. An increase of $32,134,981 would be necessary to fund those additional FTE.

USER FEES

SENATOR CHILES: The budget proposes legislation to authorize a system of user fees sufficient to collect $236 million in FY 1986. Yet the so-called White House House/Senate leadership budget compromise assumes only $150 million in Coast Guard user fees. What changes will be made to the Department's legislative proposal of April 2 because of this reduction?

ANSWER: If the amount to be collected is less than the amount contained in the Department's legislative proposal, the level of cost recovery would be adjusted to reflect the change. The same services would continue to be eligible for cost recovery, and the fee schedules and collection systems would still be determined through the regulatory process.

SENATOR CHILES: Why does the estimated number of search and rescue cases increase in Fiscal Year (FY) 1986 when the proposed legislation would establish charges for non-emergency operations?

ANSWER: Boating activity is expected to increase at a rate of one to two percent per year during the next five years as a result of an improving economy and population growth. Accompanying this increase in activity will be an increase in the level of exposure and risk, and the need for the availability of search and rescue services.

The Coast Guard will maintain a full capability to receive and evaluate calls for assistance, and will continue to maintain a capability to respond to all calls for assistance, both life threatening and non life threatening. Even if commercial service is available, it will still be necessary for the Coast Guard to be able to respond to all calls for assistance and to ensure that comprehensive search and rescue services are available.

SENATOR CHILES: Do you feel that you can maintain your search and rescue standards with a 602 position cut?

ANSWER: The 602 position cut in search and rescue (SAR) was based on an earlier estimate. The current page 32 of our FY 1986 budget request accurately reflects that of 833 Coast Guard positions being cut, 414 are allocated to SAR. Of this number, only 150 positions are being taken directly by the search and rescue program, and those are a result of the consolidation of Great Lakes stations. Search and rescue facilities in other areas of the country are not directly affected by these cuts. While there will be some increase in the average response time to calls for assistance in the areas of the Great Lakes where stations are being closed, we feel that the plan we have proposed minimizes the negative impact on responsiveness while achieving the required reductions. In general, we believe that there will be some increase in the average response time for cases in the affected areas. Since we always service life-threatening cases first, this increase will mainly be seen in the waiting time for the less severe cases.

The remaining 264 position cuts affect support personnel whose indirect services are allocated to the benefit of the search and rescue program.

NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM (NNBIS)

SENATOR CHILES: Admiral Gracey, since Coast Guard Admirals serve as NNBIS Regional and Deputy Coordinators, how would you evaluate the Coast Guard's experience with NNBIS? Do you have any suggestions that would improve the effectiveness of its operations?

ANSWER: The National Narcotics Border Interdiction System (NNBIS) has proven to be a useful, positive vehicle in fostering interagency coordination and synergism. Intelligence information gathered by various agencies is used to determine the most effective use of available resources. NNBIS focuses on the macro view of drug interdiction. NNBIS suffered some growing pains, but has experienced many successes, notably the recent execution of Operations Hat Trick and Blue Lightning. These operations required the coordination of many U. S. agencies and the cooperation of several foreign governments. These operations demonstrated the effectiveness of coordinated efforts in stopping the flow of drugs into the country. The effectiveness of NNBIS operations will be enhanced by continued support of the Administration and involved agency heads.

QUESTIONS SUBMITTED BY SENATOR BYRD

SENATOR BYRD: I am advised that the current authorization for Coast Guard C-130 aircraft is 29. How many does the Coast Guard have in its current inventory.

ANSWER: There are currently 23 HC-130 aircraft in the Coast Guard inventory. Two additional aircraft funded in fiscal year 1985 are scheduled for delivery in November 1985. These will bring the total to 25. Our authorized level is 27 aircraft.

SENATOR BYRD: Has the Coast Guard asked for additional C-130 aircraft to fill out the full authorization? What happened to the additional request?

ANSWER: The Coast Guard Authorization Act of 1984, P.L. 98-557, authorized a fleet of 27 HC-130's. The Coast Guard originally requested $35.8 million in the FY 1986 budget to acquire two additional HC-130's to expand the fleet to what would have been 26 aircraft at that time. Subsequently, FY 1985 Congressional appropriations were provided to fund another aircraft, bringing the Coast Guard fleet to a total of 25. Given funding constraints and overall priorities of the Acquisition, Construction and Improvements appropriation, no funds for additional H-C130's were included in the Congressional stage of the budget.

SENATOR BYRD: If the Committee should decide to appropriate additional funds for two additional C-130 aircraft to strengthen the drug interdiction program currently being mounted by the Coast Guard, when would these aircraft be able to be deployed and how much would they cost?

ANSWER: The cost to procure two additional PILOC (Procurement in Lieu of Contract) HC-130 airframes including documentation and contract administration is $35.8 million. We would anticipate delivery of these aircraft during the fourth quarter 1987.

SENATOR BYRD: Give some details on how the two additional C-130 aircraft originally proposed by the Coast Guard for drug interdiction, search and rescue, etc. would be used if the Committee and the Congress should decide to provide the funds.

ANSWER: Two HC-130s would provide an additional 1,600 long range search (LRS) flight hours in support of various Coast Guard's missions.

The major portion of this flight hour increase would be used in the Enforcement of Laws and Treaties (ELT) mission. Additional LRS flight hours would improve the effectiveness of recent law enforcement initiatives. For example, Aerostat, which will significantly enhance the Coast Guard's ability to detect surface targets, cannot identify targets. Effective law enforcement requires rapid identification of targets as well. Hence, other resources, primarily aircraft, are needed for rapid target identification. Moreover, intelligence reports indicate that smugglers are diverting farther and farther offshore to avoid detection. These additional long range aircraft will substantially enhance our capability to counter this tactic.

Additional HC-130 aircraft would also increase the availability of LRS aircraft to respond to Search and Rescue (SAR) missions.

SUBCOMMITTEE RECESS

Senator CHILES. We will recess our hearings until Tuesday, April 30, when we will begin the last of our two hearings, April 30 and May 1, when the committee will hear from outside witnesses.

We stand in recess today.

[Whereupon, at 11:10 a.m., Wednesday, April 24, the subcommittee was recessed, to reconvene at 10 a.m., Tuesday, April 30.]

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